

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA )  
 )  
vs. ) Criminal Action  
 )  
HERZZON SANDOVAL, ) No. 15-10338-FDS  
EDWIN GUZMAN, )  
CESAR MARTINEZ, )  
ERICK ARGUETA LARIOS, )  
Defendants )

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

JURY TRIAL DAY 12

John Joseph Moakley United States Courthouse  
Courtroom No. 2  
1 Courthouse Way  
Boston, MA 02210

February 14, 2018  
8:31 a.m.

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Official Court Reporter  
John Joseph Moakley United States Courthouse  
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E-mail: vaohara@gmail.com

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22  
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24  
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1	<u>I N D E X</u>				
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	EDWARD NOFTLE				
4	By Ms. Lawrence	10			
5	TIMOTHY O'CONNOR				
6	By Ms. Lawrence	15			
7	By Mr. Norkunas		24		
8	By Mr. Murphy		25		
9	By Mr. Lopez		27		
10	GLENN COTE				
11	By Mr. Pohl	28			
12	By Mr. Norkunas		40		
13	MATTHEU KELSCH				
14	By Mr. Pohl	43			
15	By Mr. Norkunas		53		
16	BRIAN ESTEVEZ				
17	By Ms. Lawrence	57		134	
18	By Mr. Iovieno		104		
19	By Mr. Norkunas		115		136
20	By Mr. Lopez		129		
21	SCOTT CONLEY				
22	By Mr. Pohl	137			
23	By Mr. Norkunas		150		
24	By Mr. Murphy		152		
25	WILLIAM BRIZUELA				
26	By Mr. Pohl	158			
27	By Mr. Murphy		164		
28	MAURICIO SANCHEZ				
29	By Ms. Lawrence	167			
30					
31	<u>EXHIBITS</u>		<u>FOR I.D.</u>	<u>IN EVIDENCE</u>	
32	37				17
33	39.1 through 39.5				36
34	41				22
35	42				23
36	43				68
37	59				149

1	64.4	93
	64.5	95
2	70	12
	71	10
3	110.1 and 110.2	168
	111	160
4	117.1, 117.2 and 117.3	164
	118.1 through 118.30	96

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PROCEEDINGS

THE CLERK: All rise. Thank you. Please be seated.  
Court is now back in session.

THE COURT: Good morning, everyone. What do we have to talk about? Anything from the government?

MS. LAWRENCE: Yes, your Honor. We've sent to defense counsel a transcript of a recording that we had not put on our exhibit list, but we prepared the transcript after we received copies of defense counsel's transcripts that they had intended to offer, and we gave this to defense counsel in draft form last Thursday, and we sent them a final copy last night that we authenticated with one of our witnesses who will be testifying today or tomorrow, so we'd like to offer that through that witness.

MR. MURPHY: Your Honor, what we would prefer is if we could file a written opposition or objection to the government and take it up tomorrow morning.

THE COURT: Is the question the timing of it?

MR. MURPHY: The question is largely the timing, yes, your Honor.

THE COURT: And the reason I'm asking that is if it's something that the government could be permitted to put on in a responsive case after a defense case, you know, it's not really case in chief material, and it might save time to do it now.  
Mr. Lopez.

1 MR. LOPEZ: Yes, your Honor. The government has  
2 framed this as a transcript in response to a couple of very  
3 brief excerpts of that same meeting, which I have no intention  
4 of attempting to introduce in the defense or on  
5 cross-examination, so to the extent it will be considered in  
6 some type of rebuttal, that's just not going to happen.

7 THE COURT: Okay. And the timetable, CW-7 is the  
8 witness?

9 MS. LAWRENCE: Yes, it is, your Honor, we noticed the  
08:33AM 10 part, the part that we are offering is not the same part of the  
11 recording that Mr. Lopez had identified in his case, however  
12 the part we are offering in response to arguments that have  
13 been made by the defense in cross-examination thus far in the  
14 case, and it would be the type of thing that would be part of  
15 our rebuttal case if we were to present one separately.

16 THE COURT: All right. And how many pages are we  
17 talking about?

18 MS. LAWRENCE: Four pages, your Honor. It's an  
19 excerpt from part of a recording.

08:33AM 20 MR. LOPEZ: From a three-hour meeting, your Honor.

21 THE COURT: Okay. And at what point do you expect  
22 this to come up? Do you expect it to come up today?

23 MS. LAWRENCE: I would expect it to come up towards  
24 the end of CW-7's testimony, so I don't believe we would get to  
25 it today.

1 THE COURT: Won't get to it today. In that case, why  
2 don't you get me a copy of the transcript and don't elicit or  
3 offer the transcript until I've had a chance to rule on it.

4 MS. LAWRENCE: Obviously. CW-7 refers to this meeting  
5 in another transcript that we are planning to offer and did put  
6 on our exhibit list, so he talks about the content of this in a  
7 separate recording.

8 THE COURT: All right. Anything else that anybody  
9 wants to take up? Mr. Guzman.

08:34AM 10 THE COURT: Yes.

11 MR. GUZMAN: Could I use an interpreter?

12 THE COURT: Yes.

13 MR. GUZMAN: Your Honor, I'm talking to you this  
14 morning, I'm taking the chance to talk to you because I have an  
15 issue with the evidence, evidence that I believe has not been  
16 presented to either you or the magistrate. It was going to be  
17 introduced yesterday, but my lawyer said he had some issues  
18 with his computer.

19 After the time that he spent here, it seems to me the  
08:35AM 20 time that he has spent preparing for the case, it seems to me  
21 incomprehensible that he should say that at the last minute he  
22 has some issues with his computer. I have in my hand a letter  
23 that I sent to the Court where I was issuing or making  
24 reference to part of the evidence and the need to be  
25 introduced.

1           May I hand it up to you, your Honor?

2           THE COURT: You may hand the letter. Before I read  
3 it, I don't want to read anything that includes attorney-client  
4 confidential communications, but you can hand it. I'm going to  
5 put it under seal until I've decided what to do with it.

6           Let me say two things in response. The first is that  
7 even if Mr. Lopez was having difficulty with the computer, even  
8 if Mr. Lopez is having issues with the computer, he can  
9 introduce the evidence during the defense case. He was not  
08:36AM 10 required to do it at that time, Number 1.

11           Number 2, I have complete confidence in Mr. Lopez in  
12 his ability to represent you, and he is in charge of your  
13 defense. Of course, he has to work with you, but we can't have  
14 two people making decisions. He has to direct and perform your  
15 defense while working with you, and subject, of course, to your  
16 ultimate decision-making authority.

17           Mr. Lopez, do you want to add anything here?

18           MR. LOPEZ: No, your Honor.

19           THE COURT: All right. Why don't we leave it at that.

08:37AM 20 In terms of the letter --

21           MR. GUZMAN: That's where the whole problem lies. The  
22 problem to me is that he doesn't want to introduce, bring in  
23 the evidence right now because the witness that was here  
24 yesterday will no longer be present. That's what he said.  
25 It's in my interest, I believe, that this evidence is



1 introduced as evidence for the defense and that the jury gets  
2 to see it and hear it.

3 I came to trial so that this evidence would be proved,  
4 but it's my Sixth Amendment right to come to trial and bring on  
5 the evidence and face my accusers.

6 THE COURT: All right. The trial is not over.  
7 Whatever the evidence is, I think Mr. Lopez said it was a  
8 translation issue, may come in through another witness.  
9 Certainly Mr. Lopez would be within his rights to conclude that  
08:39AM 10 it would be better to come in through a witness who is more  
11 cooperative than yesterday's witness, but the case is not over.  
12 The defense will have the opportunity to present evidence and  
13 to call witnesses, and I'm going to leave it at that for the  
14 time being.

15 In the meantime, I've put your letter under seal, and  
16 I will think about how I want to handle that, whether I want to  
17 read it or perhaps give it to Magistrate Judge Kelley for her  
18 to screen it because I don't want to be reviewing issues  
19 concerning trial strategy in the middle of the trial because  
08:39AM 20 I'm the presiding judge, but let me think about that.

21 Okay. Thank you.

22 MR. GUZMAN: Your Honor, the magistrate has already  
23 read that letter, and she is the one that recommended my  
24 attorney introduce that evidence.

25 THE COURT: All right. Let me take it a step at a

1 time, okay. I understand your issue. I'll leave it for there  
2 for now.

3 MR. GUZMAN: Thank you very much, your Honor, and I  
4 apologize for taking up your time.

5 THE COURT: All right. Anything else? All right.  
6 We'll get started as soon as we have all our jurors.

7 THE CLERK: All rise.

8 (A recess was taken.)

9 MS. LAWRENCE: The government calls Edward Noftle.

09:03AM 10 EDWARD NOFTLE, having been duly sworn by the Clerk,  
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MS. LAWRENCE:

14 THE WITNESS: Good morning, Judge.

15 THE COURT: Good morning.

16 MS. LAWRENCE: Your Honor, before I begin my direct  
17 examination, the parties have a stipulation regarding the  
18 admissibility of Exhibit 71, which is a 9-1-1 tape. I  
19 offer 9-1-1 -- sorry, I offer Exhibit 71 into evidence and ask  
09:03AM 20 that it be played for the jury.

21 THE COURT: All right. It's admitted, Exhibit 71.

22 (Exhibit No. 71 received into evidence.)

23 (Video plays)

24 Q. Good morning. Can you please introduce yourself to the  
25 jury?

1 A. Good morning. Edward Nofle. Last name is N-o-f, like  
2 Frank, t-l-e, and I'm a police officer with the City of  
3 Chelsea.

4 Q. Thank you. How long have you worked for the Chelsea  
5 Police Department?

6 A. This is my 30th year.

7 Q. What unit are you currently assigned to?

8 A. I'm assigned to the patrol division, and I'm a canine  
9 handler.

09:04AM 10 Q. What's your title, sir?

11 A. Police officer.

12 Q. What kinds of things do you do as a patrol officer with  
13 the K-9 unit?

14 A. We handle routine calls for service, accidents, domestics,  
15 fights.

16 Q. Were you working as a patrol officer on May 12, 2015?

17 A. Yes.

18 Q. Did you receive a call that day?

19 A. Yes, I did.

09:05AM 20 Q. And what did you do?

21 A. I responded to Highland Park.

22 Q. When you arrived, what did you see?

23 A. There were a group of males on the right side. As you  
24 enter the park, there's a basketball court.

25 Q. Actually, one moment, please. Can I show you Exhibit 70,

1 please. Do you recognize this photograph?

2 A. Yes.

3 Q. What is it a picture of?

4 A. It's Highland Park in Chelsea.

5 Q. Does this look like it did on May 12, 2015?

6 A. Yes.

7 MS. LAWRENCE: Your Honor, I move to admit Exhibit 70.

8 THE COURT: All right. It's admitted, Exhibit 70.

9 (Exhibit No. 70 received into evidence.)

09:05AM 10 Q. Okay. Officer Noftle, as you were describing when you  
11 arrived on the park, can you point on the screen where you  
12 responded to?

13 A. (Indicating) I came on scene from Willow Street, which is  
14 here and the entrance to the parking lot is just north of right  
15 here.

16 Q. And when you arrived at the parking lot, what did you see?

17 A. I pulled in on the far side, and to my right, which was  
18 right in this area here, there were a group of males, and there  
19 was one male laying on the ground with his back against the  
09:06AM 20 fence.

21 Q. What did you do when you saw him?

22 A. I could see that he was bleeding, lifted up his shirt,  
23 applied direct pressure to -- it was a single stab wound.

24 Q. In what area of his body?

25 A. It was middle of his torso to the left of center just

1 below his breast line.

2 Q. Did you see anything else when you lifted up his shirt?

3 A. He had several tattoos on his torso.

4 Q. Did you or someone from your force, police officer force,  
5 take a picture of the tattoos?

6 A. No, I did not.

7 Q. And why did you not do that?

8 A. At the time because of the blood and the stab wound just  
9 applying direct pressure waiting for the ambulance to show up.

09:07AM 10 Once the ambulance came, we got him right in, and they  
11 transported him immediately to the hospital.

12 Q. Okay. But did you observe a tattoo?

13 A. Yes.

14 Q. And prior to your testimony here today, did you look at  
15 examples, pictures of other tattoos?

16 A. Yes.

17 MS. LAWRENCE: Exhibit 222 for the witness, please.

18 Q. Officer Noftle, what is this?

19 A. That's a tattoo. The X and the 8 usually symbolizes the  
09:07AM 20 18th Street gang.

21 Q. And is this similar to the tattoo that you observed on the  
22 person who had been stabbed on May 12, 2015?

23 A. It is.

24 MS. LAWRENCE: Okay. May we publish this to the jury  
25 as a chalk please, your Honor?

1 THE COURT: All right.

2 Q. And, again, Officer Noftle, can you just describe to the  
3 jury what this is?

4 A. So the X would be the roman numeral 10 here and then the  
5 8, so added together it would be 18 for 18th Street.

6 Q. Okay. You said that after you had applied direct pressure  
7 to the wound, the victim was taken away in an ambulance. Did  
8 you happen to learn the victim's name at some point?

9 A. Yes.

09:08AM 10 Q. What was that?

11 A. I believe the last was Ochoa. I'm not sure of the -- I  
12 don't remember the first.

13 Q. After he was taken away, Mr. Ochoa was taken away, what  
14 did you do?

15 A. He was put into the ambulance, and his sister arrived on  
16 scene and she was visibly upset. She was trying to get  
17 information from us about her brother, and she asked about the  
18 stab wound.

19 Q. What did you tell her?

09:09AM 20 A. I told her that it was a stab wound to the chest, could be  
21 fatal, sometimes they're superficial, there's no way to tell on  
22 scene, but that she should try to find out from her brother if  
23 she could get any information on who stabbed him.

24 Q. What did she do after you told her to talk to her brother?

25 A. She went into the front of the ambulance and I never heard

1 from her again.

2 Q. So she never provided you with any information about the  
3 stabbing?

4 A. No.

5 MS. LAWRENCE: Okay. Nothing further, your Honor.

6 THE COURT: Cross?

7 MR. IOVIENO: No, your Honor.

8 THE COURT: Okay. Thank you. You may step down.

9 THE WITNESS: Thank you, Judge.

09:09AM 10 MS. LAWRENCE: The government calls Timothy O'Connor.

11 TIMOTHY O'CONNOR, having been duly sworn by the Clerk,  
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MS. LAWRENCE:

15 Q. Good morning.

16 A. Good morning.

17 Q. Can you please introduce yourself to the ladies and  
18 gentlemen of the jury?

19 A. My name is Trooper Timothy O'Connor.

09:10AM 20 Q. Who do you work for Trooper O'Connor?

21 A. Massachusetts State Police.

22 Q. How long have you worked for the State Police?

23 A. Approximately 12 years.

24 Q. What's your current assignment?

25 A. I'm currently assigned to the homicide division of the

1 Suffolk County Detective unit.

2 Q. What kind of things do you investigate?

3 A. We conduct death investigations throughout Suffolk County,  
4 which includes Chelsea, Revere, Winthrop, state property in the  
5 City of Boston, MassPort, Seaport District. We conduct  
6 homicide investigations, any type of unattended death, suicide,  
7 overdose.

8 Q. Were you called to investigate a death on December 14,  
9 2014?

09:11AM 10 A. I was.

11 Q. And tell us what happened that night?

12 A. I received a call from the Chelsea Police that there was  
13 an active homicide scene at 60 Chester Ave. Apt No. 2 in  
14 Chelsea.

15 Q. So by active homicide, does that mean someone had already  
16 died?

17 A. Yes.

18 Q. Do you know who that person was?

19 A. I do.

09:11AM 20 Q. Who was he?

21 A. Javier Ortiz.

22 MS. LAWRENCE: For the witness, please, Exhibit 37.

23 Q. Trooper O'Connor, do you recognize this document?

24 A. I do.

25 Q. What is it?



1 A. It's the death certificate for Javier Ortiz.

2 MS. LAWRENCE: Your Honor, I'd move to admit  
3 Exhibit 37 into evidence.

4 THE COURT: All right. It's admitted, Exhibit 37.  
5 (Exhibit No. 37 received into evidence.)

6 MS. LAWRENCE: Can we blow up the name, please.

7 Q. So is this the individual who had died on December 14,  
8 2014?

9 A. It is.

10 MS. LAWRENCE: Okay. Can we blow up the cause of  
11 death.

12 Q. And can you please tell us what the cause of death was?

13 A. Multiple gunshot wounds of torso.

14 Q. Okay. Thank you. Do you know if there are any other  
15 victims that night?

16 A. Yes.

17 Q. Did that person die?

18 A. No, he survived.

19 Q. Do you remember his name?

09:12AM 20 A. I do.

21 Q. What was it?

22 A. Saul Rivera.

23 Q. When you responded to the scene, what did you see?

24 A. I noticed that the area was cordoned off with police tape.

25 I noticed an amount of blood on the sidewalk out front of

1 60 Chester Ave. I entered through the front door, it was a  
2 three apartment multi-family dwelling. There was a blood trail  
3 that led from the first floor up to the second floor apartment.

4 Q. Trooper O'Connor, I want to show you some photographs.  
5 These have already been admitted into evidence.

6 MS. LAWRENCE: Exhibit 34.1, please.

7 Q. Do you recognize this?

8 A. Yes.

9 Q. What is it?

09:13AM 10 A. It's 60 Chester Ave. in Chelsea.

11 MS. LAWRENCE: 34.12, please.

12 Q. Okay. You said that you went upstairs to the second  
13 floor?

14 A. Yes.

15 Q. Did you enter the apartment?

16 A. I did.

17 Q. Do you recognize this photograph?

18 A. I do.

19 Q. What is it?

09:13AM 20 A. The hallway as you enter Apartment No. 2.

21 Q. Okay. And what is on the floor?

22 A. There's a blood trail and debris from EMTs treating the  
23 victim.

24 MS. LAWRENCE: 34.14, please.

25 Q. And what is this a photograph of?

1 A. That's the kitchen.

2 Q. And on the floor again?

3 A. Blood.

4 MS. LAWRENCE: 34.15, please.

5 Q. We're looking at the hallway again?

6 A. Yes.

7 Q. What are the markers on the floor?

8 A. Evidence.

9 MS. LAWRENCE: 34.16.

09:14AM 10 Q. What is this a photograph of?

11 A. It's a shell casing and a projectile.

12 Q. And where exactly was that in relation to the hallway?

13 A. The threshold to the bathroom.

14 MS. LAWRENCE: 34.17.

15 Q. And what are these on the floor near the markers?

16 A. Two more shell casings.

17 Q. And where was this in relation to the hallway?

18 A. In the hallway adjacent to the bathroom.

19 Q. Okay. Trooper O'Connor, was there anyone else inside the  
09:14AM 20 apartment apart from law enforcement when you got there?

21 A. Yes.

22 Q. Who was that?

23 A. It was three male roommates who had been sleeping in the  
24 back bedrooms.

25 Q. Did you talk to them?

1 A. I did not.

2 Q. Okay. Did you talk to anyone there?

3 A. I did. I talked to a third floor tenant while I was  
4 there.

5 Q. What did you do after you talked to the tenant?

6 A. I had asked the Chelsea Police to bring the three males to  
7 the station for interview, and then I proceeded to go draft a  
8 crime scene search warrant to process the apartment.

9 Q. Did you obtain a search warrant from a Judge?

09:15AM 10 A. I did.

11 Q. And was it executed?

12 A. It was.

13 Q. Do you know what was recovered?

14 A. I do.

15 Q. What were those things?

16 A. There was the .380 caliber shell casings, three of them,  
17 projectile, which was also a .38 caliber class, a number of  
18 empty Bud Light beer cans and additional swabbings of blood.

19 Q. Through your investigation, were you able to identify a  
09:15AM 20 suspect for the murder of Javier Ortiz?

21 A. Yes.

22 Q. Who was that?

23 A. A male by the name of Vida Loca.

24 Q. What was his real name?

25 A. Hector Enamorado.

1 Q. What did you know about Mr. Enamorado?

2 A. At the time we knew that his mother had lived next door --

3 MR. MURPHY: Objection, your Honor.

4 THE COURT: Sustained.

5 Q. Once you identified Hector Enamorado as a suspect, what  
6 did you do?

7 A. We -- I assembled photo arrays to be shown to witnesses.

8 Q. Okay. And did you show those photo arrays?

9 A. I did not, but they were shown to witnesses.

09:16AM 10 Q. Okay. And after you showed the photo arrays, did you take  
11 any next investigative steps?

12 A. Yes.

13 Q. What was that?

14 A. I drafted a search warrant for his wife's residence at  
15 60 Parker Street in Chelsea and also obtained an arrest warrant  
16 for him.

17 Q. Okay. Was he arrested immediately?

18 A. No.

19 Q. Why not?

09:16AM 20 A. We didn't know where he was.

21 Q. Okay. Did you take any steps to locate him?

22 A. Yes.

23 Q. What did you do?

24 A. I assembled a wanted poster with his picture, and it was  
25 disseminated to law enforcement agencies as well as the media.

1 MS. LAWRENCE: For the witness, please, could I have  
2 Exhibit 41.

3 Q. Do you recognize this, Trooper O'Connor?

4 A. Yes.

5 Q. What is it?

6 A. It's the wanted poster of Hector Enamorado that I put  
7 together.

8 MS. LAWRENCE: Okay. I'd like to move to admit  
9 Exhibit 41 into evidence.

09:17AM 10 THE COURT: All right. It's admitted, 41.

11 (Exhibit No. 41 received into evidence.)

12 Q. You said this was made public?

13 A. Yes.

14 Q. So it was released to the media?

15 A. Yes.

16 Q. What happened next in your investigation?

17 A. At some point I was contacted on December 16th by members  
18 of the North Shore Gang Task Force.

19 Q. And what did you do after you received information from  
09:17AM 20 them?

21 A. They advised me that they had received information that  
22 Hector Enamorado was attempting to flee the state.

23 Q. Was he ultimately arrested?

24 A. He was.

25 Q. On what date?

1 A. December 16th.

2 Q. And what happened after his arrest? Did you see him  
3 again?

4 A. I did.

5 Q. Where?

6 A. At the Chelsea Police Department.

7 Q. What did you do with him there?

8 A. I interviewed him.

9 Q. Okay. Was he also booked at the Chelsea Police  
09:17AM 10 Department?

11 A. He was.

12 MS. LAWRENCE: For the witness, please, can I have  
13 Exhibit 42?

14 Q. Do you recognize this photograph?

15 A. I do.

16 Q. What is it?

17 A. It was taken at booking. It's a picture of Hector  
18 Enamorado and a small bruise under his left eye.

19 MS. LAWRENCE: I'd move to admit Exhibit 42.

09:18AM 20 THE COURT: All right. It's admitted, 42.

21 (Exhibit No. 42 received into evidence.)

22 MS. LAWRENCE: I have nothing further, your Honor.

23 THE COURT: Cross? Mr. Murphy?

24 Mr. Norkunas.

25

1 CROSS-EXAMINATION

2 BY MR. NORKUNAS:

3 Q. Good morning, Trooper.

4 A. Good morning, sir.

5 Q. In relation to your investigation, you indicated that you  
6 found some spent shells in the apartment; is that correct?

7 A. Correct.

8 Q. And in an assessment of those, they all came from the same  
9 caliber weapon?

09:18AM 10 A. I did not -- I'm not a ballisticsian, but to my knowledge,  
11 yes, they came from the same weapon.

12 Q. They all appeared to be -- I think you said a .38 caliber  
13 or consistent with a .38 caliber?

14 A. .380 shell casing.

15 Q. .380 caliber. And there was no other indications of a  
16 second shooter, correct?

17 A. No.

18 Q. And at any point in time, did you interview, or did you  
19 know if Saul Rivera had been interviewed by members of your  
09:19AM 20 department?

21 A. I interviewed him.

22 Q. You interviewed him?

23 A. Yes.

24 Q. And he sustained wounds to where?

25 A. Chest.



1 Q. And that led you to believe that he would have seen his  
2 assailant, correct?

3 A. He said he saw who shot him, yes.

4 Q. And did he indicate where he was shot in the building?

5 A. In the kitchen.

6 Q. Of that second floor apartment?

7 A. Yes.

8 MR. NORKUNAS: That's all I have, thank you.

9 THE COURT: Mr. Murphy.

09:19AM 10

CROSS-EXAMINATION

11 BY MR. MURPHY:

12 Q. Good morning, Trooper. My name is Marty Murphy, and I  
13 represent Mr. Sandoval. Could you explain to the members of  
14 the jury in more detail what a photo array is?

15 A. So we assemble 8 total photos with a suspect photo and 7  
16 similar looking individuals, and they're shown in some kind of  
17 order by a presenter, and they read a form, they show them the  
18 pictures one at a time, and if they see somebody they  
19 recognize, they identify it to the presenter and tell them how  
09:20AM 20 or why they know that person.

21 Q. And so the 8 photos are photos of individuals that the  
22 police happened to have, correct?

23 A. Yes.

24 Q. And you typically include a photo of the suspect, correct?

25 A. Correct.

1 Q. And photos of other people who look more or less like him  
2 so that it's not obvious to the individual who the suspect is,  
3 correct?

4 A. Similar looking individuals, yes.

5 Q. Thank you, sir. Let me ask you, you work for the  
6 Suffolk County Homicide Squad of the Massachusetts State  
7 Police, correct?

8 A. Correct.

9 Q. And is it fair to say, sir, that there are homicide squads  
09:21AM 10 like that in every county in the state?

11 A. Correct.

12 Q. Including Middlesex County?

13 A. That's right.

14 Q. And that's been the case since you began working for the  
15 State Police some 12 years ago?

16 A. Yes.

17 Q. And it's their job to respond to every unattended death in  
18 the county, correct?

19 A. Yes, sir.

09:21AM 20 Q. And so you work on a call system?

21 A. That's right.

22 Q. And so somebody has a call and has to go out no matter  
23 what time of day, correct?

24 A. Yes.

25 Q. And so whenever anyone is found anywhere in the state in

1 those areas where the State Police has jurisdiction, a trooper  
2 will respond to the scene of that unattended death, correct?

3 A. Typically, yes.

4 MR. MURPHY: I have nothing further, your Honor.  
5 Thank you.

6 THE COURT: Any redirect? Oh. I'm sorry.

7 Mr. Lopez.

8 CROSS-EXAMINATION

9 BY MR. LOPEZ:

09:22AM 10 Q. Good morning, Trooper. My name is Scott Lopez. I  
11 represent Mr. Guzman. When you identified Vida Loca as the  
12 murderer, were you approached by any other law enforcement  
13 agencies and asked to delay your investigation in any way?

14 A. No.

15 Q. Were you made aware of an ongoing investigation that was  
16 being conducted by the U.S. Attorney's Office into MS-13?

17 A. Yes, I had received information from the North Shore Gang  
18 Task Force that -- in regards to Mr. Enamorado, yes.

19 Q. And I take it then that you weren't asked to delay arrest  
09:23AM 20 in order to -- because of any safety concerns they had for  
21 their cooperating witness?

22 A. No.

23 MR. LOPEZ: Thank you.

24 THE COURT: Any redirect?

25 MS. LAWRENCE: Nothing further, your Honor.

1 THE COURT: All right. Thank you, Trooper. You may  
2 step down.

3 Mr. Pohl.

4 MR. POHL: Thank you, your Honor. The government  
5 calls Glenn Cote.

6 GLENN COTE, having been duly sworn by the Clerk,  
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. POHL:

09:24AM 10 MR. POHL: May I, your Honor?

11 THE COURT: Yes.

12 MR. POHL: Thank you.

13 Q. Good morning, sir.

14 A. Good morning, Counselor.

15 Q. Can you do me a favor and pull that microphone up nice and  
16 close to you? Thank you. Could you please introduce yourself  
17 to the ladies and gentlemen of the jury?

18 A. My name is Glenn Patrick Cote.

19 Q. Could you spell your last name for the record, sir.

09:24AM 20 A. Yes, the spelling of my last name is C-o-t-e.

21 Q. Where do you work?

22 A. I work for the Massachusetts State Police. I'm a trooper  
23 currently assigned to the firearms identification section, also  
24 referred to as ballistics.

25 Q. Okay. How long have you been a trooper?

1 A. I have been a trooper for approximately 18 years, and  
2 prior to that I was a local police officer for a little over  
3 five years.

4 Q. Okay. And how long have you been assigned to the  
5 ballistics unit?

6 A. About 11 years now.

7 Q. Okay. And can you tell the ladies and gentlemen of the  
8 jury something about the training and experience that you've  
9 had since joining the ballistics unit?

09:24AM 10 A. Yes. Just prior to joining, I was in the firearms  
11 identification unit -- I mean, I was a firearms instructor at  
12 the academy. But while in the unit, I've attended some  
13 schools. I've gone down to Lago, Florida and learned under a  
14 place called NIBIN, which is the National Institute of  
15 Ballistics Information Network, where we learn how to enter  
16 cartridge casings and projectiles into a national database to  
17 cross-reference against unsolved crimes.

18 I've also learned under senior criminologist Nancy  
19 J. McCombs out of the Fresno laboratory. I've also  
09:25AM 20 participated in a two-year apprenticeship type program with the  
21 State Police in regards to firearms identification, where I  
22 learned under seasoned ballisticians basically where we'd  
23 respond to scenes, and I'd do actual work on cases from scene  
24 work and from cases that come in over the counter.

25 And I'm an armorer in several different weapons

1 systems. They send us to manufacturers so that we can become  
2 familiar with the nomenclature of firearms in the event we have  
3 to render minor repairs to weapons to make them operable. And  
4 I also attend conferences from AFTE, which is the Association  
5 of Firearms and Toolmark Examiners. I've taken microscope  
6 courses, I've taken toolmark identification courses, just to  
7 name a few.

8 Q. So what kinds of things are you called upon to do in your  
9 work in the ballistics unit of the State Police?

09:26AM 10 A. Basically I responded to crime scenes where I gather and  
11 preserve firearms-related evidence. I conduct test firings of  
12 weapons, including distance type pattern test when requested.  
13 And I perform microscopic examinations of recovered evidence  
14 against test firearms from suspect weapons. And I also test  
15 firearm ammunition and firearms to determine function  
16 capability. And, lastly, we also receive evidence over the  
17 counter from our own State Police barracks and from local  
18 municipalities.

19 Q. Okay. So let me just ask you about one of the things you  
09:26AM 20 just talked about, microscopic testing. Can you explain that  
21 in a little bit more detail for the jury. What is it that you  
22 do -- when you use the term "microscopic testing" what is it  
23 exactly that you mean?

24 A. Well, we have a dual microscope -- we have a couple of  
25 dual microscopes in my office, and we can look at evidence

1 under microscope -- evidence meaning either projectiles,  
2 bullets that were discharged from the firearm, or the  
3 discharged cartridge casings that were also discharged from a  
4 firearm. We can look at them under a high-powered microscope  
5 80 times the magnification of what you would see with the naked  
6 eye.

7 And we can look for striated marks or impressed  
8 markings that are -- from a microscopic point of view, you can  
9 see them a lot clearer, and we try to match these objects. We  
09:27AM 10 have a line of bifurcation on the microscope where we can look  
11 at two objects at the same time, and we try to match up the  
12 striated marks or these impressed markings, and we will make  
13 certain determinations or form opinions as to what we think.

14 Q. Okay. And what is a striation mark? What does that mean?

15 A. A striated mark is when you have a barrel that's produced,  
16 the production of that barrel, because there's random and  
17 spontaneous shavings that come off during a drill when it's  
18 being drilled down a barrel --

19 Q. And just to be 100 percent clear, when we're talking about  
09:28AM 20 the barrel, we're talking about the barrel of a gun?

21 A. Yes, sir. We're talking about the barrel of a firearm.  
22 When they're actually manufacturing these pieces that will  
23 eventually be a firearm, when they send the drill down the  
24 barrel, there's small bits of metal and debris that will come  
25 off, and as the drill is going in and out and it's making that

1 hole so eventually it can become a barrel that a bullet can go  
2 down, it's leaving very specific marks in there that that  
3 individual, it's like a fingerprint of that gun for us.

4 So in the final analysis when that barrel is made and  
5 a bullet does get fired down it, the softer alloy or lead,  
6 whichever substance you're talking that the bullet is made of,  
7 will pick up these specific individual microscopic markings in  
8 that barrel as it's going down that barrel because it was  
9 fired.

09:28AM 10 And we're looking at those -- they're called  
11 striations on a microscope, and we'll do several test fires  
12 with the weapon to see if there's replication of marks, and if  
13 we're satisfied based on this known sample, because we fired  
14 it, that there's replication, it is then that we can compare it  
15 to an unknown sample, something that might have been recovered  
16 from a scene or a body or an object.

17 Q. And those marks, the marks that are left on a bullet or a  
18 shell casing, and those are capable of being compared to  
19 weapons themselves to determine whether or not a gun fired  
09:29AM 20 those weapons or fired those bullets?

21 A. Yes, they are.

22 Q. In the course of your duties in the ballistics unit, I  
23 think you testified earlier that you respond to crime scenes,  
24 correct?

25 A. I do, sir.



1 Q. And can I direct your attention, sir, to December 14, 2014  
2 and ask if you responded to a scene on that day?

3 A. I did. I was asked to respond to 60 Chester Ave,  
4 Apartment No. 2 in regards to a fatal shooting investigation.

5 Q. Okay. And what did you do at 60 Chester Avenue?

6 A. When I was there, I was there to collect any possible  
7 ballistics-related evidence, and I did collect some items there  
8 that day.

9 MR. POHL: May I approach the witness, your Honor?

09:30AM 10 THE COURT: Yes.

11 Q. Trooper, I'm going to hand you what's been marked Exhibits  
12 39.1 through 39.4 and ask you to take a quick look at those and  
13 see if you recognize them.

14 A. Can I open these up?

15 Q. Sure.

16 A. This is one of the jacketed lead spent projectiles. This  
17 is a bullet that was recovered from the scene. This was on the  
18 floor in the threshold near the bathroom, and we had marked it  
19 Number 3 for photos.

09:30AM 20 Q. All right. Thank you. The other ones looked sealed, but  
21 you were the one that -- you recovered those items, correct?

22 A. I do, so I can speak to them.

23 Q. Sure.

24 A. This is -- when I recovered it, I -- we'll use your  
25 exhibit numbers. This is Exhibit No. 39.2. This was a .380

1 auto-caliber discharged cartridge casing. It was also  
2 recovered on the floor right next to where I recovered that  
3 projectile of the threshold to the bathroom. It had a  
4 head-stamp of "win 380 auto," and I recovered it from that  
5 scene.

6 Q. What's a discharged casing, and what's the difference  
7 between the bullet that you testified to at 39.1 and the  
8 discharged casing that you described at 39.2?

9 A. Okay. When you're looking at a bullet that's in a gun, if  
09:31AM 10 you're going to fire it, the bullet consists of four  
11 components: It has a cartridge casing. Inside the casing is  
12 gunpowder. On the back end of the casing is a primer, that's  
13 the igniter which will cause the explosion to fire it. And  
14 then you have the projectile, which is on the end of it.

15 Now, when you fire a gun and the bullet is inside of  
16 it, the projectile is the small object. It's either lead or  
17 some type of alloy that goes through the barrel. That's the  
18 part the actually causes harm to a person if it hits them. The  
19 discharged cartridge casing is the casing that -- it was  
09:32AM 20 encompassing -- it was holding in that gunpowder, and it's  
21 formulated, it's manufactured to handle the explosion.

22 When that explosion occurs, if it's in a semiautomatic  
23 pistol, which is likely where you're going to recover  
24 discharged cartridge casings, it's usually because there was a  
25 semiautomatic pistol on scene. When that explosion occurs, the

1 slide goes back on the weapon, and the extractor grabs that  
2 discharged cartridge casing, and it pulls it back, and then  
3 another little machine part in the weapon on the slide, it's  
4 called an ejector, pushes it out, and it discharges the  
5 cartridge casing onto the floor away from the weapon, so that  
6 the slide when it's going forward can put a new live cartridge  
7 from a magazine, if it's seated in the weapon. So that's what  
8 a discharged cartridge casing is.

9 Q. Okay. Why don't you look at the next two items and see if  
09:32AM 10 you recognize those, 39.3 and 39.4?

11 A. Both of these items, 39.3 was a discharged cartridge  
12 casing. It was recovered in the hallway on the floor. This  
13 was marked number 4 for photos and 39.4 was also a discharged  
14 cartridge casing. It was marked number 5 for photos, and it  
15 was recovered in the hallway on the floor.

16 Q. Okay. Thank you. And before I leave the stand, in  
17 addition to leaving -- to visiting 60 Chester Avenue and  
18 recovering that ballistics evidence, did you go to any other  
19 scene in connection with this investigation?

09:33AM 20 A. I did.

21 Q. Where did you go?

22 A. I went to -- the following day, on December 15th, I went  
23 to the medical examiner's office, and I recovered a jacketed  
24 lead spent projectile from the medical examiner's office in  
25 regards to -- it was recovered from the victim of the fatal

1 shooting investigation.

2 Q. And that was?

3 A. It was Ortiz, I think.

4 Q. I'm going to hand you what's been marked 35.5. Do you  
5 recognize that?

6 A. I do.

7 Q. What is that?

8 A. This is the jacketed lead spent projectile that I  
9 recovered from the victim at autopsy.

09:33AM 10 MR. POHL: Your Honor, I'd move 39.1 through 5 into  
11 evidence.

12 THE COURT: They're admitted, 39.1 through 39.5.

13 (Exhibit No. 39.1 through 39.5 received into  
14 evidence.)

15 Q. I'll leave those with you, Trooper.

16 A. Yes.

17 Q. So Trooper, when you had those -- recovered those items,  
18 both from the scene at 60 Chester Avenue and from the body of  
19 Mr. Ortiz at the medical examiner's office, what did you do  
09:34AM 20 with them?

21 A. I brought them back to my lab for analysis where we were  
22 going to have them sent to the different disciplines for  
23 fingerprint analysis, and then once those officers are through,  
24 then they come back to my office so that I can analyze them.

25 Q. And were you able to examine those spent -- the bullet and

1 the spent discharged casings?

2 A. I was. I was able to examine both the discharged  
3 cartridge casings and the two jacketed lead spent projectiles.

4 Q. And what, if anything, were you able to determine by  
5 examining of those items?

6 A. It was obvious to me, based on striated marks and  
7 impressed markings and firing imprint impression marks that the  
8 three discharged cartridge casings were fired by the same  
9 weapon and the two jacketed lead spent projectiles were fired  
09:35AM 10 by the same weapon.

11 Q. Were you -- at some point after you visited the crime  
12 scene at 60 Chester Avenue and the medical examiner's office,  
13 did you receive a request to examine another firearm in  
14 connection with your investigation?

15 A. I did. The Somerville Police Department had recovered a  
16 weapon and dropped it off at our lab for analysis on  
17 January 8th, and they were requesting that we compare the  
18 weapon that they had dropped off to the evidence that I  
19 collected at the scene of the fatal shooting investigation.

09:35AM 20 MR. POHL: May I approach the witness, your Honor?

21 THE COURT: Yes.

22 Q. Okay. Trooper, I want to show you what has been marked as  
23 Exhibit 46.1, which is a firearm recovered from 7 Cross Street  
24 in Somerville on January 1, 2015. Do you recognize that?

25 A. I do.

1 Q. How do you recognize it?

2 A. It's the same .380 auto caliber weapon that I examined  
3 that day and the serial number matches what I wrote down, which  
4 was CP033661.

5 Q. And in addition to 46.1, I'm going to show you four  
6 envelopes which have been grouped together as Exhibit 46.3 and  
7 ask if you recognize those?

8 A. I do. These are test fires from the weapon. I utilized  
9 two live cartridges from section inventory in my lab, and I  
09:36AM 10 test fired them in this weapon for comparison purposes, and I  
11 also utilized two live cartridges that were submitted with this  
12 weapon and test fired them also for comparative analysis.

13 MR. POHL: Your Honor, I don't think we've admitted  
14 46.3, but I'd move to admit those now.

15 THE COURT: I've got it on my list as admitted, but if  
16 it hasn't been, we'll admit it now.

17 Q. Trooper, you said a moment ago that you -- 46.3 contains  
18 two different kinds of test fires, correct?

19 A. Yes, sir.

09:37AM 20 Q. You said that you used two bullets from --

21 A. Section.

22 Q. Or session?

23 A. Yes.

24 Q. What do you mean by that?

25 A. We have a library of ammunition that we can use if we want

1 to conduct test fires, ammunition that's new so it doesn't have  
2 any previous chamber marks or cycling marks on it.

3 Q. Why do you do that?

4 A. I do that because when -- I want to have pristine  
5 ammunition that I'm test firing to make sure that there's no  
6 other marks on it and also I want a different sample in terms  
7 of when somebody submits -- when evidence is submitted, meaning  
8 other ammunition with a gun, I don't know if that has been  
9 cycled through a particular weapon. I want to make sure that  
09:37AM 10 I -- at least they're not from the same lot of ammunition, so I  
11 have different authentic samples to look at.

12 Q. And you did that in this case?

13 A. I did.

14 Q. All right. And when you test fired the ammunition from  
15 sort of the stock ammo that the State Police have at the  
16 ballistics unit and you compared it to the ammunition that you  
17 observed and examined from 60 Chester Avenue and from the body  
18 of Javier Ortiz, what conclusion did you draw?

19 A. I think -- my opinion to within a degree of ballistic  
09:38AM 20 certainty was that the three discharged cartridge casings  
21 recovered from the scene of the fatal shooting were in fact  
22 fired by the .380 auto caliber weapon, the Cobra Enterprises  
23 Model CA 380 semiauto pistol.

24 And I also formed the opinion that the two projectile  
25 -- the jacketed lead spent projectiles, one recovered from the

1 scene and one recovered from the victim, Ortiz, at autopsy were  
2 also fired by the same .380 auto caliber Cobra Enterprises  
3 Model 380.

4 Q. And finally you said that the gun came with two -- you  
5 test fired two rounds of ammunition that came with the gun  
6 itself, correct?

7 A. I did.

8 Q. All right. And did you compare those test fires to the  
9 ammunition recovered at the scene and from the body of

09:39AM 10 Mr. Ortiz?

11 A. I did. I compared all four test fires to the evidence  
12 recovered from the fatal shooting.

13 Q. And what conclusion did you draw?

14 A. Same conclusion.

15 MR. POHL: Thank you, sir.

16 THE WITNESS: Thank you.

17 THE COURT: Cross?

18 MR. IOVIENO: No, your Honor.

19 THE COURT: Mr. Norkunas.

09:39AM 20 MR. NORKUNAS: Just briefly, Judge, if I might.

21 CROSS-EXAMINATION

22 BY MR. NORKUNAS:

23 Q. Good morning, Trooper.

24 A. Good morning, Counselor.

25 Q. You told us about how you became a ballisticsian, and it's



1 fair to say that that's a learned trade, correct?

2 A. Yes, sir.

3 Q. You don't go to B.U., you don't go to M.I.T. and get a  
4 degree as a ballistician?

5 A. No, sir.

6 Q. And as you learned it, you're passing on the trade that  
7 you learned to others that are coming up through the ranks as  
8 well, correct?

9 A. Yes, sir.

09:40AM 10 Q. And you indicated also that you had a designation as an  
11 armorer?

12 A. Yes, sir.

13 Q. And is it fair to say that there's only the one official  
14 armorer in the State Police at a time stationed out in  
15 New Braintree?

16 A. That's fair to say. Yes. He's the official armorer for  
17 the State Police.

18 Q. But when you had attended the schools at the various  
19 manufacturers, you became more familiar with it and you could  
09:40AM 20 use that term in your trade, correct?

21 A. Yes, sir.

22 Q. Okay. Since it's a trade, is it fair to say when you  
23 render an opinion, such as you have here today, that it's  
24 really you're saying it's consistent with rather than a  
25 reasonable degree of ballistic certainty?

1 A. Well, my opinion is based on both objective, you know,  
2 facts and subjective analysis. So that's where, when I state  
3 that it's within a reasonable degree of ballistic certainty,  
4 it's based on my training and experience.

5 Q. It's like a carpenter saying, you know, in my trade it's  
6 consistent with what I know, right?

7 A. Well, it is consistent with what I know, yes.

8 Q. But there's no -- it's not, as with a doctor, a reasonable  
9 degree of medical certainty, there's no ballistics courses,  
09:41AM 10 it's a learned trade, so it's a consistency, right?

11 A. Well, I don't believe it's just a learned trade, because  
12 there's a lot of education that goes into it as well in terms  
13 of the courses you have to take, the analysis you go through,  
14 the conferences you attend, so there's a little bit more that I  
15 think does enable me to say to within a degree of ballistic  
16 certainty that's why I usually state that.

17 Q. Thank you, Trooper.

18 MR. NORKUNAS: Thank you, Judge.

19 THE COURT: Okay. Any redirect?

09:41AM 20 MR. POHL: No, your Honor.

21 THE COURT: Thank you. You may step down.

22 MR. POHL: Mattheu Kelsch.

23 MATTHEU KELSCH, having been duly sworn by the Clerk,  
24 testified as follows:

25

1 DIRECT EXAMINATION

2 BY MR. POHL:

3 MR. POHL: May I, your Honor?

4 THE COURT: Yes.

5 Q. Good morning, sir.

6 A. Good morning.

7 Q. Could you please introduce yourself to the ladies and  
8 gentlemen of the jury?

9 A. Yes, my name is Mattheu Kelsch, and I'll spell both  
09:42AM 10 because it's a little different. It's M-a-t-t-h-e-u, and  
11 Kelsch is K-e-l-s-c-h.

12 Q. Where do you work?

13 A. I work for the Bureau of Alcohol, Tobacco, Firearms and  
14 Explosives, or more commonly called ATF.

15 Q. What's your title, sir?

16 A. I'm a special agent.

17 Q. How long have you been a special agent with ATF?

18 A. I've been with ATF for approximately 17 years.

19 Q. And what is your current assignment?

09:43AM 20 A. Currently assigned to our intelligence group. We call it  
21 the Crime Gun Intelligence Center.

22 Q. And during your time that you have worked for the Bureau  
23 of Alcohol, Tobacco, Firearms and Explosives, have you received  
24 any training and experience concerning what's called interstate  
25 nexus analysis?

1 A. Yes. All our agents, when they go through our basic  
2 academy, a six-month academy down in Georgia, receive some  
3 training on firearms identification and firearms manufacturing,  
4 but then there are certain agents that go onto further training  
5 which is what we call interstate nexus.

6 Q. And what is that?

7 A. So interstate nexus, in a nutshell to make it very simple,  
8 is determining where a particular firearm or ammunition were  
9 manufactured.

09:44AM 10 Q. And how do you develop that information? How do you learn  
11 sort of where firearms are manufactured?

12 A. So ATF has a specialized school that's held down in our  
13 firearms tracing center. In order to go down, you're given  
14 study material. Once you arrive at the class, you take an  
15 examination. Once you pass that examination, you're allowed to  
16 go through their one-week course. That course specializes in  
17 firearms identification, the different parts of a firearm, and  
18 more specifically the markings that, by law, have to be placed  
19 on a firearm.

09:44AM 20 In addition to that, ATF has almost like a library,  
21 but instead of having books, we have firearms. So they have a  
22 catalogue of over 10,000 different firearms. So if you're a  
23 gun enthusiast, it would be your dream place to be. You spend  
24 time there, and there's also testing on identifying different  
25 types of firearms, the markings on them, and also ammunition

1 during that time.

2 At the end of that one-week training, there's a  
3 written examination. If you pass that examination, you're  
4 allowed to testify as to nexus. We also have advanced courses  
5 in ammunition and in factory tours. So during the advanced  
6 factory tour, the agents actually go to a number of different  
7 firearms manufacturers that are located -- a lot of them are up  
8 here in the Northeast, and we see the different manufacturing  
9 processes for firearms and how the identifying numbers and  
09:45AM 10 information are actually placed on the firearms during that  
11 process.

12 Q. Have you -- and you've taken that course?

13 A. Yes, I have.

14 Q. And have you been called upon to testify concerning the  
15 origin of firearms and whether -- and the sort of interstate  
16 nexus of firearms prior to your testimony here today?

17 A. Yes, I have.

18 MR. IOVIENO: Objection, your Honor.

19 THE COURT: I'll let it stand. Overruled.

09:45AM 20 MR. IOVIENO: May we approach sidebar, your Honor,  
21 briefly?

22 THE COURT: All right.

23 (THE FOLLOWING OCCURRED AT SIDEBAR:)

24 MR. IOVIENO: Judge, I understand what he's trying to  
25 get out of this witness, but in this case a firearm and where

1 it comes from in the nexus to interstate commerce is  
2 irrelevant. This is a racketeering case along with a drug  
3 conspiracy case. I think this evidence is irrelevant. It  
4 doesn't -- it's not germane to any issue before the Court. If  
5 the Court does allow it, I'd ask for a limiting instruction as  
6 the Court previously gave about firearms.

7 THE COURT: Mr. Pohl.

8 MR. POHL: It is relevant because one of the elements  
9 of the racketeering conspiracy is that the enterprise has to  
09:46AM 10 have affected interstate commerce, and the fact that multiple  
11 members had possession of firearms that have moved in  
12 interstate commerce is relative for that purpose. I think you  
13 admitted it for similar purposes in the November trial.

14 THE COURT: Yes.

15 MR. POHL: And I don't think it's appropriate to give  
16 another limiting instruction at this time. They've heard that  
17 several times already, and this testimony doesn't really go to  
18 that. It's simply going to talk about where the guns were made  
19 and the fact that they were all made outside of Massachusetts.

09:47AM 20 THE COURT: Okay. I agree with that.

21 MR. POHL: Thank you.

22 (SIDEBAR CONFERENCE WAS CONCLUDED)

23 THE COURT: Mr. Pohl, put a question for the witness.

24 MR. POHL: Thank you very much, your Honor.

25 Q. You have testified concerning where firearms were made and

1 manufactured prior to your testimony here today?

2 A. Yes, I have.

3 Q. Approximately how many times have you offered that type of  
4 testimony, Special Agent Kelsch, in the course of your career?

5 A. In U.S. District Courts, over 20 times.

6 Q. And in other courts?

7 A. I have testified in state courts as well as the District  
8 of Massachusetts and the District of Connecticut.

9 Q. And how many examinations have you conducted of the  
09:47AM 10 origins of firearms and whether or not they have moved in or  
11 traveled in interstate commerce prior to your testimony here?

12 A. I've authored over 220 reports, but each of those reports  
13 could contain multiple firearms and multiple rounds of  
14 ammunition, so hundreds of rounds of ammunition, if not  
15 thousands and hundreds of firearms.

16 Q. All right. Special Agent Kelsch, were you asked to  
17 examine firearms that were recovered in connection with this  
18 case?

19 A. Yes, I was.

09:48AM 20 MR. POHL: May I approach the witness?

21 THE COURT: Yes.

22 MR. POHL: And with the Court's permission, I'm going  
23 to bring all four of these items up now.

24 Q. Special Agent Kelsch, I'm going to show you what has been  
25 marked as Exhibit 51 and ask if you have examined that firearm

1 prior to your testimony here today?

2 A. Yes, I have.

3 Q. And what can you tell the jury about the make and  
4 manufacture of that particular firearm?

5 A. Sure. I think I mentioned briefly before that there are  
6 certain markings that have to be placed on a firearm. The Gun  
7 Control Act of 1968 mandated that manufacturers put certain  
8 markings on a firearm, all right, in particular you have to  
9 have the manufacturer's name, the model number, if they -- the  
09:49AM 10 model number or make if they have one, the caliber of the  
11 firearm, the state and the city where the manufacturer is based  
12 and a serial number.

13 So all of those things have to be placed on a firearm.  
14 So when I look at a particular firearm during an examination, I  
15 break it down, I look for that particular information that is  
16 required to be there by law.

17 Q. Okay. And did you do that in connection with this  
18 particular firearm?

19 A. Yes, I did.

09:49AM 20 Q. And what, if anything, did you determine when you examined  
21 that firearm?

22 A. So I'm looking at this particular firearm. I see that  
23 it's labeled "H&K," so -- which is Heckler and Koch is the name  
24 of the company. It's a Model P30, it's a .9 millimeter  
25 semiautomatic pistol, and there's also a serial number if you'd



1 like me to read that. So it's serialized with 129055554.

2 In addition, I left out before, if a firearm is made  
3 outside of the United States, in addition to those things I  
4 mentioned, it also has to have the name and city and state of  
5 the importer, so the company that imported that firearm into  
6 the United States also must be present on this firearm. So  
7 this particular firearm also has importer information, which is  
8 labeled as HK-I Columbus, Georgia.

9 Q. All right. So based on your training and experience,  
09:50AM 10 Special Agent Kelsch and your examination of that particular  
11 firearm, what, if anything, can you tell the jury about the  
12 manufacturer of the firearm?

13 A. Yes, so this particular firearm would have been  
14 manufactured in Germany.

15 Q. Okay. And imported into the United States?

16 A. That is correct, yes.

17 Q. Where?

18 A. And that would have been by the company HK-I and they're  
19 based in Columbus, Georgia.

09:50AM 20 Q. Thank you. Next, I'm going to show you Exhibit Number 69  
21 and ask if you had examined that firearm in connection with  
22 your work on this case?

23 A. Yes, I did.

24 Q. And what, if anything, can you tell the jury about that  
25 particular firearm?

1 A. So, once again, looking at this particular firearm, I look  
2 for the required manufacturer information that must be placed  
3 on there, so here I see it's labeled as Ruger, which would be  
4 the Sturm Ruger Company. It's a Model P94DC. It's a .9  
5 millimeter semiautomatic pistol, and it's labeled on the side  
6 as Southport, Connecticut. There's no visible serial number on  
7 this particular firearm.

8 Q. Okay. And what can you tell the ladies and gentlemen of  
9 the jury about where that firearm was manufactured?

09:51AM 10 A. So this particular firearm made by Sturm & Ruger, although  
11 it says Southport, Connecticut on the side of it, the company  
12 has a variance issued by ATF. A lot of companies manufacture  
13 their firearms in a different state but want to put their  
14 headquarters address on the firearm.

15 So Sturm & Ruger is headquartered out of Southport,  
16 Connecticut, and that's the information that's on the side  
17 here, but all Sturm & Ruger semiautomatic pistols are actually  
18 made in Prescott, Arizona, and that's where this pistol would  
19 have been manufactured.

09:52AM 20 Q. Okay. Thank you. Let me show you Exhibit 46.1, which is  
21 this weapon here. Did you examine that firearm before your  
22 examination -- before your testimony here today?

23 A. Yes, I did.

24 Q. And what can you tell the ladies and gentlemen of the jury  
25 about that particular firearm?

1 A. So this particular firearm -- and it's affixed to a box,  
2 so I can't flip it over to read you directly, but I know from  
3 my training and experience that this is a Cobra Model CA380,  
4 caliber .380 semiautomatic pistol, and the serial number on the  
5 back strap is CP033661.

6 Q. Okay. And you examined that firearm before your testimony  
7 here today?

8 A. Yes, I did.

9 Q. What can you tell the ladies and gentlemen of the jury  
09:53AM 10 about where that firearm was manufactured?

11 A. This particular firearm would have been manufactured in  
12 Salt Lake City, Utah.

13 Q. Okay. And finally, I'll take that back from you. I'm  
14 going to show you what's been introduced as Exhibit 82.1 and  
15 ask if you recognize that.

16 A. Yes, I do.

17 Q. How do you recognize it?

18 A. So this particular firearm, once again, it's affixed to a  
19 box, so I can't read you directly but I can tell from my  
09:53AM 20 training and experience that this particular firearm is a high  
21 point .45 caliber pistol with Serial Number X464014, and all  
22 the other information is on the reverse side of the pistol.

23 Q. Okay. And based on your training and experience and your  
24 examination of the firearm, can you tell the jury where that  
25 firearm was manufactured?

1 A. Yes, all high point .45 caliber pistols are manufactured  
2 by a company called Haskell, and they're manufactured in Lima,  
3 Ohio.

4 Q. Special Agent Kelsch, based on your examination of the  
5 firearms themselves and your training and experience, did you  
6 form an opinion concerning whether or not the objects that we  
7 just had you examine, which are 46.1, 51, 69 and 82,1 moved in  
8 or affected interstate commerce?

9 MR. MURPHY: Objection.

09:55AM 10 MR. IOVIENO: Objection.

11 THE COURT: I'll let him testify as to whether they  
12 moved in interstate commerce.

13 A. None of those firearms were manufactured in the  
14 Commonwealth of Massachusetts, so they would have all moved in  
15 or affected interstate commerce.

16 Q. All right. Special Agent Kelsch, let me ask you a general  
17 question about ammunition. In addition to the firearms that  
18 you've examined here today and prior to your testimony, there  
19 is ammunition that was seized in connection with some of these  
09:55AM 20 weapons that you examined, correct?

21 A. That is correct, yes.

22 Q. All right. And you have, in the course of your duties as  
23 an ATF agent, been asked to examine many different brands of  
24 ammunition, correct?

25 A. Yes, I have.

1 Q. All right. And can you tell the jury generally whether  
2 ammunition -- you're aware of whether any ammunition was  
3 manufactured in the Commonwealth of Massachusetts?

4 A. Sure. So, in speaking of commercial ammunition, when  
5 ammunition is made and the bottom of the brass, a  
6 manufacturer's name is stamped into the headstamp. They call  
7 it a head-stamp on the ammunition. So when we look at that  
8 ammunition, we look at the headstamp to see who the  
9 manufacturer was.

09:56AM 10 Currently, there are no commercial manufacturers of  
11 ammunition in Massachusetts. Historically many years ago,  
12 there was military ammunition made in Springfield Armory out in  
13 Western Massachusetts, but as far as commercial-made  
14 ammunition, there is none being produced in Massachusetts nor  
15 has there been.

16 Q. Thank you, sir.

17 A. Thank you.

18 THE COURT: Cross.

19 MR. IOVIENO: No, your Honor.

09:56AM 20 THE COURT: Mr. Norkunas.

21 MR. NORKUNAS: Just briefly, Judge, if I might.

22 CROSS-EXAMINATION

23 BY MR. NORKUNAS:

24 Q. Good morning, sir.

25 A. Good morning.

1 Q. Relative to your examination of the three weapons that  
2 were shown to you, the three handguns, are you able to age  
3 them?

4 A. I'm sorry. There were four firearms that we talked about.

5 Q. Four. That's correct. Four. Were you able to age them?

6 A. So you mean date of manufacture?

7 Q. Right.

8 A. We do have their information, I just do not procure that  
9 as part of my examination.

09:57AM 10 Q. Would you have a -- at least, a reasonable degree of  
11 professional certainty that they were not new when you examined  
12 them? They did not appear to be something that had been  
13 recently purchased and then presented to you? Let me strike  
14 that. Let me give you perhaps a better question.

15 A. Sure.

16 Q. Do firearms evolve such as other products so that if  
17 you're having a .9 millimeter, it looks something like this,  
18 and then four years later they slightly change the model, they  
19 do something different when you're looking at it, you realize  
09:58AM 20 that had been Model A vs. Model B?

21 A. That is a fair assumption. Firearm manufacturers do  
22 change the models over time, yes.

23 Q. One is because they want sales, too, right? They want you  
24 to come back and buy something new or better?

25 A. Sometimes that, or something they're just general

1 improvements, safety improvements that are made to certain  
2 firearms, so they change that model.

3 Q. So from the firearms that you examined here, would these  
4 be something that would likely to have been 10, 12, 14 years  
5 old?

6 A. I can't suppose to that. I can tell you that two of the  
7 firearms are still currently manufactured in that same model  
8 number. Two others I believe are models that have been  
9 discontinued over time, but I don't know the year they were  
09:58AM 10 discontinued.

11 Q. Now, you've indicated with each of the weapons that you've  
12 looked at, the handguns had manufacturer, model, caliber, state  
13 where their plant is located and a serial number on them. Do  
14 you examine weapons that periodically, when you look at them,  
15 someone has filed or attempted to erase all of that  
16 information?

17 A. Just to step back with your question. It's not the state  
18 where it was manufactured that may be on the firearm, it's  
19 usually the headquarters of manufacturer or the state where it  
09:59AM 20 was manufactured, so it could be either/or, just to correct  
21 that, but, yes, I have looked at firearms where the serial  
22 numbers have been tampered with.

23 Q. And from your training and experience as a representative  
24 or a Special Agent in ATF, what's your understanding of the  
25 purpose for someone doing it?

1 A. So we're talking about if someone were to obliterate a  
2 serial number on a firearm?

3 Q. Right.

4 A. The main reason that we a serial number being tampered  
5 with or obliterated is to affect the tracing of that firearm,  
6 to find out where that firearm came from.

7 Q. So that if that's used for some elicited purpose and the  
8 weapon is found, you're not going to know a person to go back  
9 to, right?

10:00AM 10 A. That is correct, yes.

11 Q. And the purpose of that is all of this information that's  
12 on, generally, a weapon is stored by you, being the ATF,  
13 correct?

14 A. The information is actually stored by the firearms  
15 manufacturers and then the dealers of the firearms. We don't  
16 maintain an active database ourselves, we're not allowed to by  
17 law, but we take that information, we go back to the  
18 manufacturer. They'll tell us where that firearm was shipped  
19 to as far as a dealer, and then the dealer will have the  
10:00AM 20 information as to the first person that ever purchased that  
21 firearm was.

22 Q. Thank you, sir. Thank you.

23 THE COURT: Redirect.

24 MR. POHL: No. Thank you very much, Agent Kelsch.

25 THE WITNESS: Thank you, your Honor.



1 MS. LAWRENCE: The government calls Brian Estevez.

2 BRIAN ESTEVEZ, having been duly sworn by the Clerk,  
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. LAWRENCE:

6 THE WITNESS: Good morning, your Honor.

7 Q. Good morning, sir.

8 A. Good morning.

9 Q. Can you please introduce yourself to the ladies and  
10 gentlemen of the jury?

11 A. Yes, Trooper Brian Estevez.

12 Q. Where do you work Trooper Estevez?

13 A. I'm currently employed by the Massachusetts State Police.

14 Q. What's your current assignment there?

15 A. I'm a trooper with the gang unit, assigned to the gang  
16 unit.

17 Q. And do you have another assignment?

18 A. Yes. I'm also assigned to the FBI North Shore Gang Task  
19 Force.

10:02AM 20 Q. Can you tell us a little bit about what you do in the gang  
21 unit for the State Police?

22 A. We conduct long-term and short-term gang investigations  
23 along with the FBI task force. We also have a patrol function  
24 every day, Monday through Friday, where we cover cities on the  
25 North Shore of Boston, Chelsea, East Boston, Everett, Lynn,

1 Revere. And we patrol those cities attempting to prevent  
2 violence and conduct motor vehicle stops, identify gang  
3 members.

4 THE COURT: Can you move that mic just a little bit  
5 closer, not too close. It's very sensitive. Okay. Thank you.

6 Q. What additional things do you do with the North Shore Gang  
7 Task Force?

8 A. We conduct long-term gang investigations.

9 Q. And what types of investigative activities does that  
10:03AM 10 involve?

11 A. We conduct surveillance, we do controlled buys with  
12 informants and confidential witnesses, we attempt to record  
13 evidence.

14 Q. When you work, you said confidential informants and  
15 cooperating witnesses. Is there a difference between those  
16 two?

17 A. Yes. A confidential informant or CI is an individual that  
18 provides information to law enforcement. A confidential  
19 witness or CW is an individual that proactively gathers  
10:03AM 20 evidence and provides information to law enforcement.

21 Q. As part of your work with either the State Police or the  
22 North Shore Gang Task Force or both, have you investigated a  
23 street gang called MS-13?

24 A. Yes.

25 Q. When did you begin working on the MS-13 investigation?

1 A. The investigation began in 2014, but I was one of the  
2 individuals that picked up the CW-1 at the airport when he  
3 arrived in 2013.

4 Q. Was that individual known by another name during the  
5 investigation?

6 A. Yes, Mako.

7 Q. Mako. Did he have even another name?

8 A. His street name?

9 Q. His street name.

10:04AM 10 A. Yes. They called him Pelon.

11 Q. Are you a fluent Spanish speaker, Trooper Estevez?

12 A. Yes.

13 Q. How many members of the North Shore Gang Task Force are  
14 fluent in Spanish?

15 A. There's two of us, myself and my partner, Trooper Depena.

16 Q. Did you speak with CW-1 during the investigation in  
17 Spanish?

18 A. Yes.

19 Q. Does he also speak English?

10:04AM 20 A. Yes.

21 Q. And how often did you speak with CW-1 during the  
22 investigation?

23 A. We would speak definitely on several times a week,  
24 sometimes daily.

25 Q. Did you speak to him in person?

1 A. Yes.

2 Q. On the phone?

3 A. Yes.

4 Q. And are you familiar with his voice?

5 A. I am.

6 Q. What was the nature of your conversations with CW-1?

7 A. CW-1 would call me and provide information that he had  
8 gathered from MS-13 members about things that they have said or  
9 things that they had done.

10:05AM 10 Q. And what kinds of things -- again, just in general terms,  
11 what kind of things would he report on?

12 A. He'd talk about statements that they've made about recent  
13 violence, gang meetings, clique meetings that they've had,  
14 things of that nature.

15 Q. What steps did you take to verify the information that  
16 CW-1 gave to you?

17 A. The task force would attempt to record these meetings.  
18 We'd also conduct surveillance of controlled buys and try to  
19 attempt to surveil these events as much as possible.

10:05AM 20 Q. Did CW-1, in fact, record conversations or meetings with  
21 MS-13 members?

22 A. He did.

23 Q. Were those recordings -- were the persons speaking on the  
24 recordings speaking Spanish or English?

25 A. Spanish.

1 Q. Did you listen to those recordings?

2 A. I did.

3 Q. Did you listen to them during the investigation or after?

4 A. Both.

5 Q. When you listened to the meetings or the recordings, were  
6 you able to identify the speakers on the recordings?

7 A. Yes.

8 Q. How did you go about doing that?

9 A. A lot of these individuals I've spoken to in the past,  
10:06AM 10 some I've met, and through monitoring these recordings prior to  
11 and after the investigation, I made myself familiar with their  
12 voices.

13 Q. When you received the recordings, did you also have  
14 information from CW-1 about them?

15 A. Yes.

16 Q. What was that information, generally?

17 A. Generally, he would tell me who was there, who was  
18 speaking, and what things were said.

19 Q. You mentioned that you had talked to some of the  
10:06AM 20 individuals during the investigation or after. I want to focus  
21 on the after part. Did you participate in interviews or what  
22 has been called proffer sessions with cooperating defendants in  
23 this case?

24 A. Yes.

25 Q. Can you explain to the jury what a proffer session is?

1 A. A proffer is more -- it's kind of an agreement between  
2 prosecutors and law enforcement. An individual will come in  
3 and talk to the prosecutors and law enforcement about events  
4 and things that they know in this particular case about the  
5 gang and the gang's activity.

6 Q. When you attended a proffer session, did you know in  
7 advance, for example, what questions you would ask the person  
8 you were interviewing?

9 A. Yes, sometimes we did. We would have some questions in  
10:07AM 10 mind, but it all really depended on what they said and what  
11 they were able to provide, and then we'd go from there.

12 Q. Was it uncommon for you to meet with a particular witness  
13 or cooperating defendant more than once?

14 A. No. It was not uncommon. I've been in proffers with  
15 individuals several times. It's kind of a trust building  
16 exercise in the beginning where they kind of get to know you.

17 MR. MURPHY: Objection, your Honor.

18 THE COURT: I'll allow it. It's in generals, he's  
19 speaking in general terms and not about specific witnesses.

10:08AM 20 I'll allow it.

21 Q. You can finish.

22 A. It's more of a trust building exercise where individuals  
23 come in. They kind of get to know you in the process, and the  
24 next time you talk, they're a little bit more comfortable,  
25 they're able to provide a little bit more information.

1 MR. MURPHY: Objection.

2 THE COURT: Same ruling, he's speaking generically,  
3 not about any specific person.

4 Q. So you get to know them over time. And do you also learn  
5 information that would cause you to ask different questions of  
6 them?

7 A. Correct.

8 MR. MURPHY: Objection, your Honor, as to relevance.

9 THE COURT: Well, that's a fair point. Why don't we  
10:08AM 10 move on.

11 Q. Trooper Estevez, as part of this MS-13 investigation, did  
12 you investigate a murder that occurred on December 14, 2014?

13 A. I did.

14 Q. How did you get involved in that investigation?

15 A. I was contacted by CW-1 regarding a conversation that he  
16 had with two individuals where they had mentioned --

17 MR. MURPHY: Objection, your Honor.

18 MR. IOVIENO: Objection.

19 THE COURT: All right. Let's stop there. Put another  
10:09AM 20 question to him.

21 Q. I'd like to show --

22 MS. LAWRENCE: Could I have the document camera,  
23 please, for the witness. Thank you.

24 Q. Okay. Trooper Estevez, do you see something on your  
25 screen right now?

1 A. Yes. It's a DVD.

2 Q. And what is the date on the disk, please.

3 A. 12-14-14.

4 Q. Okay. This has been marked as Exhibit 208. Have you  
5 listened to this recording prior to your testimony today?

6 A. I have.

7 Q. When you listened to the recording, were you able to  
8 identify the speakers on the recording?

9 A. Yes.

10:09AM 10 MS. LAWRENCE: Could I have the computer screen now  
11 for the witness, please. 43.

12 Q. I'm now showing you, Trooper Estevez, a transcript of  
13 excerpts of the recording on the disk that you just saw. Did  
14 you prepare this transcript?

15 A. I did not.

16 Q. Have you read this transcript?

17 A. I have.

18 Q. And when you read the transcript and listened to the  
19 recording, did you find that the transcript accurately

10:10AM 20 reflected the English and Spanish words that were spoken on the  
21 recording?

22 A. Yes.

23 MS. LAWRENCE: Your Honor, the disk that we just saw  
24 goes with this transcript marked Exhibit 43. I'd like to move  
25 Exhibit 43 into evidence.



1 THE COURT: I think he needs to say whether he  
2 also -- whether the transcript reflects the identity of the  
3 speakers.

4 Q. You said that the words spoken were accurate on the  
5 transcript as you listened to it. Does this transcript also  
6 accurately reflect the speakers on that recording?

7 MR. MURPHY: Objection.

8 THE COURT: Overruled.

9 A. Yes.

10:10AM 10 MS. LAWRENCE: Thank you. I move Exhibit 43 the  
11 transcript.

12 MR. MURPHY: Your Honor, subject to the Court's  
13 *Petroziello* and our prior objection.

14 THE COURT: I'll give you a standing objection on  
15 this. Thank you. It's overruled. It's admitted, Exhibit 43.

16 THE COURT: Again, one more time, let me remind you,  
17 ladies and gentlemen, this is what the government says is an  
18 accurate translation and what the government says are the  
19 relevant speakers. That's a question for you to determine  
10:11AM 20 based on all of the evidence.

21 MR. MURPHY: May we approach, your Honor?

22 THE COURT: Yes.

23 (THE FOLLOWING OCCURRED AT SIDEBAR:)

24 THE COURT: Yes.

25 MR. MURPHY: Your Honor, I'd just like to make a very

1 specific objection to Exhibit 43 on the grounds that, although  
2 this witness certainly established that he has familiarity with  
3 CW-1's voice, he has not established familiarity with the other  
4 individuals who were identified on the transcripts, and I think  
5 without a basis that he knows what Crazy sounds like, that he  
6 knows what Danger sounds like, et cetera, the government should  
7 not be permitted to offer the transcript.

8 THE COURT: I think that's fair. Why don't you ask  
9 him those questions and we'll see. I'll be prepared to vacate  
10:12AM 10 the admission of the exhibit if the foundation is not laid.

11 MR. MURPHY: Thank you.

12 (SIDEBAR CONFERENCE WAS CONCLUDED)

13 THE COURT: All right. Ms. Lawrence.

14 Q. Trooper Estevez, before we take a closer look at that  
15 transcript, I want to show you admitted Exhibit 13, please. Do  
16 you recognize this individual?

17 A. I do.

18 Q. Who is he?

19 A. Noe Perez-Vasquez, a.k.a. Crazy.

10:12AM 20 Q. And how do you know this person?

21 A. Through the course of the investigation.

22 Q. And can you tell us a little bit more about him and what  
23 you've learned through the investigation, please?

24 A. Through the investigation, we've had several recordings of  
25 him speaking on tape, also pictures of him, surveillance

1 pictures of him. He's an influential member of the Everett  
2 Locos clique.

3 Q. He's an MS-13 member?

4 A. He's an MS-13 member.

5 MS. LAWRENCE: Okay. May I have admitted Exhibit 12,  
6 please.

7 Q. Who is this person, if you know?

8 A. An individual Smiley/Danger.

9 Q. And what have you learned about him through the  
10:13AM 10 investigation?

11 MR. MURPHY: Objection, your Honor.

12 THE COURT: Sustained in that form.

13 Q. Do you know this individual?

14 A. I do.

15 Q. Have you learned anything about him in the course of your  
16 investigation?

17 A. Yes. An MS-13 member, he's also --

18 MR. MURPHY: Objection.

19 THE COURT: Sustained.

10:13AM 20 Q. What do you know about this person that you've learned in  
21 the investigation?

22 MR. MURPHY: Objection, your Honor.

23 THE COURT: Sustained. I mean, I thought you were  
24 going to ask about whether he's familiar with what his voice  
25 sounds like, which is what you're trying to do.

1 MS. LAWRENCE: Yes, your Honor.

2 Q. Have you heard this person speak?

3 MR. MURPHY: Objection, your Honor. Foundation.

4 THE COURT: Overruled.

5 Q. In what context, Trooper Estevez, have you heard him  
6 speak?

7 A. Through the course of the MS-13 investigation.

8 Q. Did you speak to him in person?

9 A. No.

10:14AM 10 Q. How did you hear his voice?

11 A. On a recording.

12 Q. Okay.

13 MS. LAWRENCE: Your Honor, I'd now move to admit  
14 Exhibit 43, if it hasn't been formally admitted.

15 MR. MURPHY: Objection, your Honor.

16 THE COURT: The objection is overruled, and 43 is  
17 admitted.

18 MS. LAWRENCE: All right. Thank you.

19 (Exhibit No. 43 received into evidence.)

10:14AM 20 Q. Trooper Estevez, I'd like to look at Exhibit 43, please,  
21 again. Please. All right. I'd like to read just a little bit  
22 of this transcript. I'll read CW-1, if you would read the  
23 other voices, please, starting with the first two lines.

24 CW-1: "So Vida Loca is gone then, dude?"

25 A. "Yes, he got away."

1 MS. LAWRENCE: May I have admitted Exhibit 42, please.

2 Q. Trooper Estevez --

3 MS. LAWRENCE: Sorry. Can I have a moment, your  
4 Honor?

5 THE COURT: Yes.

6 MS. LAWRENCE: Thank you. Jurors, open your binders  
7 so you can follow along, please.

8 Q. Do you recognize this individual in the photograph?

9 A. I do.

10:15AM 10 Q. Who is he?

11 A. Hector Enamorado, also known as Vida Loca.

12 Q. And what do you know about him in the context of this  
13 investigation?

14 A. He's a member of the Chelsea Loco Salvatruchas clique and  
15 he was a suspect in the homicide.

16 Q. And is that the person that we -- do you understand that  
17 that's the person that Crazy is talking about in this  
18 transcript?

19 A. Yes.

10:15AM 20 MS. LAWRENCE: Okay. Could we turn, please, to page  
21 2 -- 3, please. Sorry.

22 Q. All right. Let's start at the top of the page with Crazy,  
23 if you could read that, please, Trooper Estevez?

24 A. Yes. Crazy: "To kill him because he was already there.

25 The guys wanted to fight him again so then the crazy guy called

1 me and told me, no, man, it's better if you lend me your gun.  
2 I'm going over. I'm going over and I'm going over, and you'll  
3 see, hey, dude, do me the favor, fuck, he told me. They are  
4 all rival gang members."

5 Q. CW-1: "They are rival gang members. It can be done  
6 there."

7 A. Crazy: "Yeah, they are rival gang members. They are  
8 chavalas, 18th Street gang. They are gang rivals."

9 Q. CW-1: "The little lady just told --"

10:16AM 10 A. Crazy: "They are rival gang members, but I call them  
11 Maras, sons of bitches, and that's why I got into a fight with  
12 one of them. That's what he told me. There is no problem he  
13 said, and, sure enough, he called yesterday at two in the  
14 morning."

15 Danger: "He went over to leave them a rapid fire of  
16 beans."

17 Crazy: "Yes."

18 Q. CW-1: "That's fine, the lady, the lady tells me that."

19 A. Crazy: "And one is not -- and one of them is in grave  
10:17AM 20 condition and alive."

21 Q. CW-1: "And the other one is dead?"

22 A. Crazy: "Yes, one is dead and the other one is in grave  
23 condition."

24 Q. CW-1: "Yes, that's what the lady told me and that's why I  
25 wanted to tell you that the lady told me that one died and the

1 other one is in serious condition and that --"

2 A. Crazy: "Uh-huh. I have Vida. Vida shot him in a really  
3 good spot."

4 Q. Okay. I think we'll pause there. Trooper Estevez, there  
5 was a phrase, a statement by Danger that you read earlier. He  
6 said, "He went over to leave them a rapid fire of beans." In  
7 your training and experience and particularly in connection  
8 with this investigation, what do you understand that statement  
9 to mean?

10:18AM 10 A. Beans or frijoles in Spanish are what this gang uses for  
11 bullets, so when he says "a rapid fire of beans," it's a rapid  
12 fire of bullets.

13 Q. And we're going to continue on just to the end of the  
14 page. CW-1 says, "So, they were chavalas, dude?"

15 A. I'm sorry, where are you reading?

16 Q. The dot dot dot.

17 A. Okay. Yes. Crazy: "They were chavalas. There was a  
18 bunch of them, there, dude, and --"

19 Q. CW-1: "But the lady is telling me that they sold, they  
10:18AM 20 sold beer and --"

21 A. Danger: "But I called them."

22 Crazy: "Yes, it's a house, it's an after party house,  
23 dude, you know what I mean?"

24 Danger: "I called the crazy dude when he left, man."

25 Crazy: "They were drinking. They were drinking

1       there, dude."

2       Q.     "Huh?"

3       A.     Danger:  "I called Vida when he left, man."

4       Q.     Can you turn to the next page, please.  Okay.  Could we  
5       start reading, Trooper Estevez, toward the top of the page  
6       about a third down where Crazy starts with "listen".  At the  
7       eighth line down.

8       A.     Yes.  Crazy:  "Listen, they came over here to break  
9       everything in the house and they are looking for weapons, she  
10:19AM 10     told me, and she said I don't know anything about that."

11      Q.     CW-1:  "But you got your gun back?"

12      A.     Crazy:  "That's right."

13             Danger:  "I have it here."

14      Q.     CW-1.  "Oh, that's good, man."

15      A.     Danger:  "It's a .380, but it only has two beans now."

16      Q.     CW-1:  "Son of a bitch, we have to find some beans."

17      A.     Danger:  "That's why I wanted to get that thing soon,  
18       too."

19      Q.     CW-1:  "And was he the only one that went over?"

10:20AM 20     A.     Danger:  "With Brujo, Brujo had the .22."

21      Q.     CW-1:  "Really?"

22      A.     Danger:  "Yes, he went with Brujo.  Brujo said, "I'll go  
23       with you.  I am not staying behind."  He told them and they  
24       left, dude."

25      Q.     CW-1:  "And who shot them, Vida Loca?"



1 A. Danger: "Vida Loca was the one who shot them."

2 Q. CW-1: "Yes?"

3 A. Danger: "Yes. I was the one that called them."

4 Crazy: "Vida Loca killed the guy. You think he was  
5 joking?"

6 Q. CW-1: "That dude."

7 Trooper Estevez, again, can we stay on page 3 for a  
8 second. When Danger says that the .380 only has two beans in  
9 it now, can you explain to the jury what that means again.

10:20AM 10 A. Yes, the .380 is, it's a firearm -- .380 caliber firearm  
11 and it only has two bullets left in it now.

12 Q. And when Danger says, "With Brujo. Brujo had the .22, he  
13 went with Brujo," what do you understand that to mean?

14 A. I understand that to be another weapon, a .22 caliber  
15 handgun.

16 MS. LAWRENCE: Could I have admitted Exhibit 8,  
17 please.

18 Q. Do you recognize this individual?

19 A. Yes.

10:21AM 20 Q. Who is he?

21 A. Brujo.

22 Q. And what do you know about him in the context of this  
23 investigation?

24 A. He's an --

25 MR. MURPHY: Objection, your Honor.

1 THE COURT: Sustained.

2 Q. On page 4, if we could have page 4. I'm sorry, it's 3.  
3 When Crazy says "Vida Loca killed the guy, you think he was  
4 joking?" And then he says, "He shot him and he shot the  
5 other." What is that referring to?

6 MR. LOPEZ: Objection.

7 Q. Or what do you understand that to mean?

8 MR. LOPEZ: Objection.

9 THE COURT: Sustained.

10:22AM 10 Q. One more question. Crazy says, "He got his gun back."

11 MS. LAWRENCE: Could I have admitted Exhibit 14,  
12 please.

13 Q. Do you recognize this individual?

14 A. I do.

15 Q. Who is he?

16 A. Innocente.

17 Q. What do you know about him?

18 A. He's an MS-13 member of the Everett Locos.

19 Q. Is that the same clique that you said Crazy belonged to?

10:22AM 20 A. Correct.

21 Q. Okay. Just to be clear, Trooper Estevez, this transcript  
22 of the recording that we just read, did you listen to that in  
23 realtime on December 14, 2014?

24 A. I did not.

25 Q. So at that time did you know which MS-13 member was

1 suspected of killing a Javier Ortiz?

2 A. No.

3 Q. Was there another state police unit investigating the  
4 homicide?

5 A. Yes.

6 Q. Who was that?

7 A. The troopers assigned to the Suffolk County  
8 District Attorney's Office.

9 Q. Were they able to identify a suspect in the murder?

10:23AM 10 A. Yes.

11 Q. Do you know who they identified?

12 A. Yes.

13 Q. Who was that?

14 A. Hector Enamorado.

15 Q. Do you know him by another name?

16 A. Vida Loca.

17 Q. Did they -- were they able to arrest him immediately?

18 A. No.

19 Q. So what happened next in the investigation after the

10:23AM 20 December 14th information you received from CW-1?

21 A. On December 16th, CW-1 contacted me via telephone and  
22 advised, sorry -- on the December 14th, CW-1 initially  
23 contacted me and advised that he believed there was an MS-13  
24 member --

25 MR. MURPHY: Objection, your Honor.

1 MR. IOVIENO: Objection, your Honor.

2 THE COURT: I'll allow it not for the truth of the  
3 matter asserted but for the fact that the trooper was told  
4 this. Again, ladies and gentlemen, remember my analogy of the  
5 witness who comes into the courtroom and says the building is  
6 on fire. In other words, you can consider this for the fact  
7 that it was said to the trooper but not for the truth.

8 Go ahead.

9 Q. And after you received that information on the 14th, did  
10:24AM 10 you receive other information on the 16th?

11 A. I did.

12 Q. Okay. And after you received that information, what did  
13 you do?

14 A. On the 16th, the information I received was that Crazy had  
15 contacted CW-1 and asked him to move somebody, they wanted to  
16 take somebody to New York.

17 Q. Okay. I'd like to show you admitted Exhibit 44.1, please.  
18 Okay. Trooper Estevez, this is a transcript of a call between  
19 CW-1 and Crazy on December 16th at approximately 5 p.m. Have  
10:25AM 20 you reviewed this transcript?

21 A. Yes.

22 Q. Okay. I want you to read part of the transcript starting  
23 with where Crazy says, towards the bottom, "to go on a trip"  
24 and I'll read CW-1.

25 A. Okay. Crazy: "To go on a trip, or if you want to go to

1 New York to drop them off over there, what do you say?"

2 Q. CW-1: "When?"

3 A. Crazy: "Now. You'll get 400."

4 Q. CW-1. "I'll get 400?" Let's go to page 2, thanks.

5 Q. Crazy: "Yes. Right now, at once, before you leave."

6 Q. CW-1: "And who needs to be dropped off?"

7 A. Crazy: "A dude."

8 Q. Okay. That's fine for now. Trooper Estevez, during the  
9 investigation, did CW-1 have a job?

10:25AM 10 A. Yes.

11 Q. What was that job?

12 A. He was a cab driver. I'm sorry. He used his own personal  
13 car for cab driving.

14 Q. And did he routinely take people on rides?

15 A. Yes.

16 Q. And he was paid to do that?

17 A. Correct.

18 MS. LAWRENCE: Can we turn Exhibit 44.2, please. It's  
19 also been admitted.

10:26AM 20 Q. Okay. Trooper Estevez, this is a transcript of a  
21 recording made on December 16, 2014 at approximately 5:17 p.m.  
22 So that's how much longer after the call we just heard?

23 A. 17 minutes. 17 minutes.

24 Q. 17 minutes later?

25 A. Yeah.

1 Q. Have you reviewed this transcript?

2 A. Yes.

3 Q. Okay. I'm going to show you quickly before we talk about  
4 this Exhibit 44.3. Okay. This is a transcript of a call  
5 between CW-1 and Crazy, also on December 16, and this is  
6 5:42 p.m. Have you reviewed this transcript?

7 A. Yes.

8 Q. Okay. Having reviewed these transcripts, I'm not going to  
9 read them directly right now. What do you understand the  
10 content of this conversation to be between Crazy and CW-1?

10:26AM

11 A. That he wanted CW-1 to pick him up and another individual  
12 to drive him to New York.

13 Q. Okay. And from reviewing the transcripts, do you know  
14 what time Crazy wanted CW-1 to pick up the person?

15 A. He wanted to do it immediately.

16 Q. Okay. After you received this information from CW-1, what  
17 did you do next in the investigation?

18 A. I contacted the task force members and advised them that  
19 Crazy wanted to move somebody out of Boston to New York and  
20 advised them that we should start surveillance.

10:27AM

21 Q. Where did you start that surveillance?

22 A. I started that surveillance at Breman Street.

23 Q. And were you familiar with Breman Street?

24 A. Yes.

25 Q. From the investigation?

1 A. Yes.

2 Q. And how were you familiar with it?

3 A. It was an address known to us as a destroyer house, an  
4 MS-13 gang house.

5 Q. Did you conduct surveillance yourself on Breman Street  
6 that night?

7 A. I did.

8 Q. What did you see during your surveillance?

9 A. I saw CW-1's car pull up and three individuals enter the  
10:28AM 10 car.

11 Q. Could you recognize the individuals then?

12 A. No.

13 Q. What happened after the individuals got in the car?

14 A. As the car moved on, we knew he was transferring Hector  
15 Enamorado, Vida Loca, out of the state because of the  
16 information that he was involved in a homicide. And knowing  
17 that Hector Enamorado already had a state warrant that was  
18 applied for by the troopers at the Suffolk District Attorney's  
19 Office, we contacted other members of the task force, and we  
10:28AM 20 made a plan to allow the car to drive onto the Mass. Pike and  
21 then we would conduct a motor vehicle stop of the vehicle.

22 Q. Before we get to that stop, I'd like to turn to  
23 Exhibit 44.4, please. This is a transcript of a recording made  
24 on the same night, December 16, 2014, and this appears to have  
25 been made at 6:42 p.m., so approximately an hour after the last

1 call between Crazy and CW-1. Who is this call between?

2 A. CW-1 and a/k/a Anderson Chacon, a.k.a Scooby.

3 Q. Okay. And I'd like, if you would, to read the part where  
4 Scooby starts talking, "Tell that dude" and I'll read CW-1.

5 A. Scooby: "Tell that dude to be careful right now when he  
6 goes because I just got a call from Vampy from the clique  
7 saying that the dude was even on Google because he's the most  
8 wanted man in Chelsea, man."

9 Q. CW-1: "Oh, that's what I just heard."

10:29AM 10 A. Scooby: "Yes, man. I just got a call from the dude that  
11 it is on the news and that he's the most wanted. Be careful  
12 right now when you go so that the police doesn't stop you,  
13 man."

14 Q. CW-1: "I heard that shit, but I don't believe the woman.  
15 She told me that there was a photo of this guy on the news with  
16 the license, bro."

17 A. Scooby: "Well, it's like I'm telling you, that dude  
18 called me and yes, he says that they have photos even on Google  
19 and all. It's on the news, just turn on Chelsea news and the  
10:30AM 20 dude comes up there and the whole thing, man."

21 Q. Okay. We'll stop there. Do you know who Scooby was --  
22 is?

23 A. Yes.

24 Q. Who is he?

25 A. He's a member of the TLS clique.



1 Q. And in your own words, what do you understand Scooby to be  
2 talking to CW-1 about?

3 A. Vida Loca, Hector Enamorado.

4 Q. Okay. Let's continue back to you were just saying that  
5 you were making a plan to stop the car?

6 A. Yes.

7 Q. On the Mass Pike?

8 A. Yes.

9 Q. Okay. Tell us a little more about how that plan was going  
10:30AM 10 to be carried out?

11 A. So we would allow the car to enter the Mass. Pike. By  
12 that time, we had plenty of surveillance teams following the  
13 vehicle and monitoring its progress. We were going to have my  
14 supervisor, Sergeant Mario Millett, put his uniform, State  
15 Police uniform on, and on top of that, we were going to have  
16 two CAT teams, it's an abbreviation for Community Action Team,  
17 troopers that patrol the Mass Pike help with the motor vehicle  
18 stop as well.

19 Q. So, Trooper Estevez, let me ask you this. You said  
10:31AM 20 earlier Vida Loca -- there was an arrest for Vida Loca or  
21 Hector Enamorado. Why are you creating this somewhat elaborate  
22 seeming plan to stop him instead of just having a regular  
23 trooper arrest him on the warrant?

24 A. So what we would -- this is what we call a wall-off stop  
25 where we attempt to allow the vehicle to drive in this case

1 about an hour away from where he had initially started in order  
2 to -- and then conduct a motor vehicle stop of the vehicle,  
3 make it look routine in order not to alert anybody inside the  
4 vehicle that the real reason that the car is being stopped is  
5 for the wanted individual inside the car and make it look like  
6 it was more of an accident than that we knew he was in there,  
7 and the reason we do that is to protect the confidential  
8 witness in the vehicle so it doesn't get back to him.

9 Q. Okay. And did you execute the wall-off stop in this case?

10:32AM 10 A. Yes.

11 Q. Okay. What was the result of that?

12 A. The result was the arrest of Hector Enamorado, a.k.a  
13 Vida Loca.

14 Q. And did anything else happen to your knowledge after the  
15 wall-off stop with respect to CW-1's car?

16 A. Yes. So CW-1's car had a defective tail light, and that  
17 was essentially the reason for the motor vehicle stop. After  
18 the arrest of Enamorado, Crazy made CW-1 pull over on the  
19 highway and verified and made him check that the tail light was  
10:33AM 20 out.

21 THE COURT: Why don't we take our break.

22 MS. LAWRENCE: Okay. Thank you.

23 THE CLERK: All rise.

24 (JURORS EXITED THE COURTROOM.)

25 (A recess was taken.)

1 THE CLERK: All rise for the jury.

2 (JURORS ENTERED THE COURTROOM.)

3 THE CLERK: Thank you. You may be seated. Court is  
4 now back in session.

5 THE COURT: Ms. Lawrence.

6 MS. LAWRENCE: Thank you, your Honor.

7 Q. Trooper Estevez, right before we broke, you said that  
8 Vida Loca was arrested that night, on December 16, 2014?

9 A. Yes.

10:50AM 10 Q. How long after the murder of Javier Ortiz was Vida Loca  
11 arrested and charged with that murder?

12 A. Two days.

13 Q. Two days.

14 MS. LAWRENCE: Could I have admitted Exhibit 8 again,  
15 please.

16 Q. Trooper Estevez, you testified earlier that you recognized  
17 this individual?

18 A. Yes.

19 Q. What was his name again?

10:50AM 20 A. Brujo.

21 Q. How do you recognize him?

22 A. I took that picture.

23 Q. Okay. And did you talk to him when you took that picture?

24 A. I did.

25 Q. And did you learn anything from him about who he was or

1 how he's related to this investigation?

2 A. He's known to me as --

3 MR. MURPHY: Objection.

4 THE COURT: Hold on. Sustained.

5 MS. LAWRENCE: Can I have admitted Exhibit 14, again,  
6 please.

7 Q. Earlier you testified or you identified this individual as  
8 Innocente?

9 A. Yes.

10:51AM 10 Q. Who's a member of the Everett?

11 A. Everett Loco Salvatrucha.

12 Q. Do you know him by another gang name?

13 A. Yes.

14 Q. What is that?

15 A. Triste.

16 Q. I'm going to switch gears and talk about a different topic  
17 right now, Trooper Estevez. Are you familiar with an  
18 investigative technique called a drug protection detail?

19 A. I am.

10:51AM 20 Q. Could you explain what that is for the jury, please.

21 A. Essentially it's a -- a drug protection detail technique  
22 is when one undercover officer provides a significant amount of  
23 narcotics to a CW and that drug -- those drugs are escorted and  
24 protected by gang members and brought to another undercover  
25 officer while being surveilled the entire time by law

1 enforcement officers.

2 Q. Okay. Do you use real drugs when you conduct a drug  
3 protection detail?

4 A. Yes.

5 Q. Was this investigative technique used in this case?

6 A. Yes.

7 Q. How many times?

8 A. Three times.

9 Q. Were you personally involved in all three of those times?

10:52AM 10 A. Yes.

11 Q. Okay. Do you remember when they occurred?

12 A. February, October and December of 2014.

13 Q. And what was your role in the investigation on those days?

14 A. Surveillance officer and I also debriefed the CW.

15 Q. And when you conduct surveillance, can you just describe a  
16 little bit about what you do, how the surveillance teams  
17 operate during the drug protection detail?

18 A. We attempt to use as many vehicles as possible. We call  
19 them soft vehicles. They're vehicles that -- not your typical

10:53AM 20 police car with lights and markings, they're undercover cars,  
21 regular cars, using mixed bags of different cars. We try to  
22 set up at locations prior to the arrival of the person that  
23 we're surveilling if we know in advance, otherwise we just try  
24 to tail the vehicles at a safe distance but keeping them within  
25 our eye at all times.

1 Q. What kind of drug did you use for the investigative, I'm  
2 sorry, the drug protection details in this case?

3 A. Cocaine.

4 Q. How did -- you said you set up this drug protection  
5 detail. How do you know -- who are you surveilling when this  
6 is happening?

7 A. We were surveilling the CW, the narcotics, and the  
8 individuals involved.

9 Q. Did you direct the CW-1 to do anything before the drug  
10:53AM 10 protection detail took place?

11 A. I don't understand the question.

12 Q. Did he ask anyone to participate with him?

13 A. He did.

14 Q. Okay. And did you tell him to ask different members of  
15 MS-13 to participate in these details with him?

16 A. I did not personally, no.

17 Q. Did someone from law enforcement?

18 A. The task force.

19 Q. Okay. I'd like to focus on the February protection  
10:54AM 20 detail, February 14, 2014. Who from MS-13 was involved in that  
21 drug protection detail?

22 A. Muerto.

23 MR. NORKUNAS: Objection, Judge, characterization.

24 THE COURT: All right. How about who was involved in  
25 that drug protection detail?

1 Q. Who was involved in that drug protection detail, please?

2 A. CW-1, Muerto and Checha.

3 MS. LAWRENCE: Could I have admitted Exhibit 6,  
4 please.

5 Q. Who is this, Trooper Estevez?

6 A. Muerto.

7 Q. And who is he?

8 A. He is a member of the Eastside Loco Salvatrucha clique.

9 Q. And could I -- sorry. Who else was involved that day,

10:55AM 10 CW-1 and who else?

11 A. Checha.

12 Q. And who is Checha?

13 A. He's also a member of the Eastside Locos Salvatrucha  
14 clique.

15 Q. Do you recognize Checha here in the courtroom today?

16 A. I do.

17 Q. Can you point him out for the jury, please?

18 A. Yes, right over there.

19 Q. Can you describe what he's wearing?

10:55AM 20 A. He has a beard, he has a green shirt, green striped shirt  
21 and a black and green and white tie, striped tie.

22 MS. LAWRENCE: May the record reflect the  
23 identification of the defendant, Cesar Martinez, please?

24 THE COURT: Yes.

25 Q. On February 14, 2014, what was the quantity of cocaine

1 that was being protected during the detail?

2 A. One kilogram.

3 Q. And, again, did you provide a real kilogram of cocaine for  
4 this detail?

5 A. The task force did, yes.

6 Q. Okay. Did Muerto and Checha get paid for protecting this  
7 one kilogram of cocaine shipment?

8 A. They did.

9 MR. NORKUNAS: Objection, Judge.

10:55AM 10 THE COURT: Overruled.

11 Q. How much did they get paid?

12 A. \$500.

13 Q. Each or together?

14 A. I'm sorry, each.

15 Q. Okay. Let's turn to the October drug protection detail.  
16 On October 17th, who was involved in that drug protection  
17 detail?

18 A. CW-1, Muerto and Chucho.

19 Q. Just three individuals?

10:56AM 20 A. And Caballo.

21 Q. Okay. Who is Caballo?

22 A. Caballo is also a member of the Eastside Locos Salvatrucha  
23 gang.

24 MS. LAWRENCE: Could I have admitted Exhibit 11,  
25 please.



1 Q. Do you recognize this person?

2 A. Yes.

3 Q. Who is it?

4 A. Caballo.

5 Q. Who is Chucho?

6 A. He's also an MS-13 member.

7 Q. Of the same clique, or a different clique?

8 A. Of the same clique.

9 Q. Okay. Who -- what quantity of cocaine was being protected  
10:56AM 10 during the October protection detail?

11 A. One kilogram.

12 Q. And was one real kilogram of cocaine provided for that  
13 detail?

14 A. Yes.

15 Q. Did the participants, Muerto, Caballo, and Chucho get paid  
16 for protecting that one kilogram detail?

17 A. Yes.

18 Q. How much did they get paid?

19 A. \$500 each.

10:57AM 20 Q. Let's turn to the December 8, 2014 detail. Who was  
21 involved in that one?

22 A. CW-1, Muerto, Lobo, Caballo, Crazy.

23 Q. Five persons that time?

24 A. Yes. And Danger/Smiley.

25 Q. Lobo?

1 THE COURT: Danger/Smiley is one person?

2 THE WITNESS: One person, yes.

3 Q. Who's Lobo?

4 A. Eric Argueta. He's an MS-13 member, Eastside  
5 Locos Salvatrucha gang.

6 Q. Do you recognize him here in the courtroom today?

7 A. I do.

8 Q. Can you point him out, please?

9 A. He's sitting right there. He's got a black blazer with a  
10:57AM 10 white shirt, no tie.

11 MS. LAWRENCE: May the record reflect the  
12 identification of defendant Eric Argueta Larios?

13 THE COURT: Yes.

14 Q. Thank you. Okay. You said Muerto, Lobo, Caballo -- we  
15 just saw a picture of Caballo. Crazy?

16 A. Yes.

17 MS. LAWRENCE: Could I have admitted Exhibit 13 again,  
18 please.

19 Q. Is this the same Crazy we looked at before?

10:58AM 20 A. Yes.

21 Q. The same individual?

22 A. Yes.

23 MS. LAWRENCE: Okay. And admitted Exhibit 12, please.

24 Q. And who's this?

25 A. Smiley or Danger.

1 Q. And this person you said was involved in the drug  
2 protection detail?

3 A. Correct.

4 Q. Okay. And you conducted surveillance that day of the  
5 detail?

6 A. Correct.

7 Q. Did you see him during your surveillance?

8 A. Yes.

9 Q. And who is he?

10:58AM 10 A. He's also an MS-13 gang member.

11 Q. Do you know if he's related to another MS-13 member that  
12 you investigated?

13 A. Yes.

14 Q. Who's that?

15 A. Muerto. He's Muerto brother.

16 Q. Where is Smiley/Danger now, if you know?

17 A. In El Salvador, I believe.

18 Q. Was he charged in this case?

19 A. Yes.

10:58AM 20 Q. When did you learn that he was -- sorry, do you know how  
21 he got to El Salvador?

22 A. He was deported by Homeland Security.

23 Q. And when did you learn that he was deported?

24 A. During the investigation.

25 Q. Did you know he would be deported? Did you know before he

1 was deported that he was going to be?

2 A. We had no idea.

3 Q. All right. So what was the quantity of cocaine that was  
4 being protected during the December 8, 2014 protection detail?

5 A. 5 kilograms of cocaine.

6 Q. And did you provide 5 real kilograms of cocaine for that  
7 protection detail?

8 MR. MURPHY: Objection, your Honor.

9 THE COURT: Overruled.

10:59AM 10 A. Yes.

11 Q. Did Crazy, Danger, Lobo, Caballo and Muerto get paid for  
12 protecting this 5 kilogram shipment of cocaine?

13 A. Yes.

14 Q. How much did they get paid?

15 A. \$500.

16 Q. Okay. Trooper Estevez, I'd like you to watch what has  
17 been admitted as Exhibit 64.4, please.

18 THE CLERK: What is this?

19 MS. LAWRENCE: 64.4.

10:59AM 20 THE COURT: It's not admitted.

21 MS. LAWRENCE: Okay. May I just have it for the  
22 witness, please then.

23 Q. I'm going to play a short clip of this. It's not very  
24 long in its entirety, but I ask you to watch it before I ask  
25 you questions.

1 (Video played.)

2 Q. Trooper Estevez, do you recognize this recording?

3 A. Yes.

4 Q. Have you seen it before?

5 A. Yes.

6 Q. What is it?

7 A. It's a recording of the day of the protection detail on  
8 December 8, 2014.

9 Q. And you've watched this recording, this clip in its  
11:00AM 10 entirety; is that correct?

11 A. Yes.

12 Q. And does it accurately reflect what you know to have  
13 happened on December 14, 2014?

14 A. Yes.

15 MS. LAWRENCE: Okay. I'd move to admit Exhibit 64.4  
16 into evidence, your Honor.

17 THE COURT: It's admitted, 64.4.

18 (Exhibit No. 64.4 received into evidence.)

19 MS. LAWRENCE: Can we start over and publish for the  
11:01AM 20 jury, too, please.

21 (Video played)

22 Q. Trooper Estevez, you testified earlier that you speak  
23 Spanish, correct?

24 A. Yes.

25 Q. So could you understand what was being spoken on that

1 recording?

2 A. Yes.

3 Q. And what did you hear people saying, in particular, the  
4 person -- oh, did you see the person handling money?

5 A. Yes.

6 Q. Who was that?

7 A. CW-1.

8 Q. And what was he saying as he was handling the money?

9 A. He was counting the money and paying everybody in the car.

11:03AM 10 Q. Did he say different people's names as he was counting?

11 A. He did.

12 Q. Who did you hear him say?

13 A. At the end he said, he counted 1, 2, 3, 4, 5, and he said  
14 for Lobo.

15 Q. During the video at some points he reached back into the  
16 back seat of the car?

17 A. Yes.

18 Q. At that time when he said for Lobo --

19 A. Yes.

11:03AM 20 Q. -- he seemed to put the money and set it aside?

21 A. Yes.

22 Q. Why did he do that?

23 A. Because he wasn't there. He had left.

24 Q. Okay. Did you hear any talk of that on the recording?

25 A. Yes. He said this money is for Lobo and, you know, I want

1 to give it to him because I don't want him to think that we got  
2 more money, that I paid anybody more money.

3 Q. Trooper Estevez --

4 MS. LAWRENCE: Could I have 64.5 for the witness.

5 Q. I'll play just a short part of this for you to see if you  
6 recognize it.

7 (Video played.)

8 Q. Do you recognize this recording?

9 A. Yes.

11:04AM 10 Q. What is it, please?

11 A. A recording from the same date, 12-8-14, drug protection  
12 detail.

13 MS. LAWRENCE: Okay. Your Honor, I move to admit  
14 64.5, please.

15 THE COURT: It's admitted, 64.5.

16 (Exhibit No. 64.5 received into evidence.)

17 MS. LAWRENCE: Let's play this in its entirety.

18 Thank you.

19 (Video played.)

11:04AM 20 Q. Okay. Trooper Estevez, what did we just see there and  
21 hear?

22 A. Hear the door open and closing, somebody gets in the  
23 vehicle, CW-1 passes cigarettes, and he says, "These are for  
24 you, Lobo," and then he gets the money from the center console  
25 again, counts it and hands it back to him.

1 Q. Okay. Thank you.

2 MS. LAWRENCE: I'd like to show the witness, please,  
3 Exhibits 118.1 through 30.

4 Q. We can just click through them as I'm talking.  
5 Trooper Estevez, I want you to just take a look at these  
6 photographs. There are about 20 some of them. We'll go  
7 through them as we talk. Do you recognize these photographs?

8 A. Yes.

9 Q. What are they?

11:05AM 10 A. These were photographs taken during the 12-8-14 drug  
11 protection detail.

12 Q. Did you personally take these photographs?

13 A. I did not.

14 Q. Were you present when the photographs were taken?

15 A. Yes.

16 Q. And do the photos accurately reflect what you saw on  
17 surveillance that day?

18 A. Yes.

19 MS. LAWRENCE: Okay. Your Honor, I'd move to admit  
11:05AM 20 all of the -- Exhibits 118.1 through 118.3 -- 30. Sorry, 30,  
21 not 2.

22 THE COURT: All right. They're admitted, 118.1  
23 through 118.30.

24 (Exhibit No. 118.1 through 118.30 received into  
25 evidence.)



1 Q. Okay. I'd like to start and show you Exhibit 118.20.

2 Trooper Estevez, what are we looking at in this photograph?

3 A. It's a photograph of the vehicle, the white Ultima which  
4 was used in the drug protection detail and an individual on a  
5 phone known to me as Lobo with a blue coat.

6 Q. Do you see -- so is it the white Ultima that's in the  
7 foreground of the photograph?

8 A. The one closest to us.

9 Q. And do you see any figures in that car?

11:06AM 10 A. Yes.

11 Q. Can you count -- maybe you can't, but how many can you see  
12 if you can?

13 A. I see about three.

14 Q. Okay. And we just watched a video of individuals in a  
15 car --

16 A. Yes.

17 Q. -- passing out money?

18 A. Yes.

19 Q. Was that car they were sitting in the white Ultima that  
11:07AM 20 you just referenced and pointed out on the photograph?

21 A. Yes.

22 118.1 through 118.30, so 118.21, please.

23 Q. And what do we see here?

24 A. Again, I can see four individuals in a car now and a white  
25 Ultima, and, again, a head shot of Lobo walking in the

1 background.

2 Q. Okay. And then 118.22, what is that?

3 A. Again, the same vehicle, one individual with his back to  
4 us and again Lobo going towards the individual.

5 Q. And 118.23. What's he doing there?

6 A. The same Ultima, Lobo in the blue coat and the other  
7 individual I believe is Caballo opening the rear door of the  
8 Ultima.

9 Q. Okay. I'd like to show you 118.27, please. What do we  
11:08AM 10 see here?

11 A. It looks like they've all exited the vehicle. There's  
12 Crazy on the left with the black jacket, Muerto in the blue  
13 short sleeve shirt, Smiley/Danger in the middle with his back  
14 towards us and Lobo in the blue coat leaning on the white  
15 Ultima.

16 Q. And Exhibit 118.28.

17 A. That's Lobo walking away, Crazy looking back in the  
18 middle, Smiley looking back to his right and Muerto next to the  
19 Ultima.

11:09AM 20 Q. And finally 118.29. Do you recognize that vehicle?

21 A. Yes.

22 Q. What is it, please?

23 A. That's CW-1's vehicle, personal vehicle.

24 Q. Okay. All right. Thank you very much. Different topic  
25 now, Trooper Estevez. During the MS-13 investigation, were you

1 involved in a gun seizure on January 28, 2015?

2 A. Yes.

3 Q. How did you get involved?

4 A. On that evening, I received a phone call from CW-1 that he  
5 had just been inside a restaurant in Chelsea, Casa Mariachi,  
6 and that he had run into Lobo at this restaurant. While there  
7 at the restaurant, Lobo asked him to go inside the bathroom.

8 MR. IOVIENO: Objection, your Honor.

9 THE COURT: Overruled. This is part of the

11:09AM 10 *Petroziello*?

11 MR. IOVIENO: Yes, and also 403, your Honor.

12 THE COURT: But is it part of the *Petroziello*  
13 disclosures?

14 MS. LAWRENCE: It's really more just to say what he  
15 did next. I think it's both, but I think it's fine to put  
16 another question.

17 THE COURT: Let's stop there for now.

18 Q. After you received this call from CW-1, what did you do?

19 A. I called my partners, I called my supervisor,

11:10AM 20 Sergeant Millett, and advised him that I just received a phone  
21 call from CW-1 that Lobo was at Casa Mariachi and he was in  
22 possession of a handgun.

23 THE COURT: Just to be clear, I'm going to admit that,  
24 for -- again, for the fact that that statement was made to the  
25 officer, not for the truth of the matter.

1 Q. So what did they do?

2 A. I was on my way in, my partners were already in Chelsea,  
3 and they had set up surveillance outside of the restaurant to  
4 observe if Lobo came out of the restaurant.

5 Q. Did he come out of the restaurant?

6 A. He did.

7 Q. And what did they do?

8 A. They approached him, had a conversation with him, and made  
9 an arrest for the firearm.

11:11AM 10 Q. Was it your plan to approach Lobo right outside the  
11 restaurant?

12 A. No, it was not.

13 Q. What was the plan?

14 A. My plan was that I wanted surveillance to surveil the  
15 restaurant. As I was on my way in, we were going to wait for  
16 Lobo to drive away in his vehicle and conduct a wall-off stop  
17 at that point, a motor vehicle stop of his vehicle and attempt  
18 to recover the firearm that way.

19 Q. And why were you -- was a wall-off stop, that's what you  
11:11AM 20 used in connection with the Vida Loca arrest, correct?

21 A. Correct.

22 Q. And why did you want to use a wall-off stop to question  
23 Lobo in this case?

24 MR. IOVIENO: Objection, your Honor.

25 THE COURT: It doesn't seem relevant. Sustained.

1 MS. LAWRENCE: Okay.

2 Q. So the officers did make an arrest of Lobo that night?

3 A. Yes.

4 Q. And why did they arrest him?

5 A. Illegal possession of a firearm.

6 Q. Did you respond to Casa Mariachi, that location, that  
7 evening?

8 A. I was on my way. Once the arrest was made, it wasn't -- I  
9 turned around and went to the State Police barracks in Revere  
10 and I waited for them there.

11 Q. Okay. Did you look for anything that night?

12 A. Yes, we -- after the -- after he was brought to Revere and  
13 I found out that the firearm was missing the clip or the  
14 magazine that carries the bullets, myself and Trooper  
15 Shawn Riley went back and searched the area of Casa Mariachi  
16 and his vehicle for the magazine.

17 Q. Did you find it?

18 A. No.

19 Q. Okay. After the arrest of Lobo, did you learn anything  
20 about the gun that was taken from him?

21 A. Yes.

22 Q. What did you learn?

23 A. During the recorded clique meeting from CW-1, we were made  
24 aware that the gun was actually a clique gun.

25 Q. What is a clique gun in your understanding?

1 A. My understanding --

2 MR. IOVIENO: Objection.

3 MR. MURPHY: Objection.

4 THE COURT: Sustained.

5 Q. Have you heard the term "clique gun" before?

6 A. Yes.

7 Q. And when have you heard it?

8 A. Through the investigation.

9 Q. What part of the investigation?

11:13AM 10 A. Throughout the investigation, we've known about clique  
11 guns, not just in this particular event.

12 MS. LAWRENCE: May I have admitted Exhibit 23, please.

13 Q. Trooper Estevez, this is a transcript of part of a  
14 recording made on February 8, 2015, which is about 10 days  
15 after Lobo's arrest and gun seizure. Is this the clique  
16 meeting that you were referring to when you said you learned  
17 that the gun that was seized was a clique gun?

18 A. Yes.

19 Q. I'd like to read a bit of this starting on page 2.

11:14AM 20 MR. IOVIENO: Objection. It's 403.

21 THE COURT: Overruled.

22 Q. If you could read the "Lobo" starting in the middle of the  
23 page where -- sorry, hold on one second. I'm sorry. At the  
24 very bottom of 2 where Lobo starts to say, "That was later,"  
25 can you read that and continuing onto the first paragraph of

1 the other page?

2 A. I have the transcript here. Can I read it from here?

3 Q. Yes, that's fine.

4 A. Lobo: "That was later. When they took me away, they  
5 opened the car. So when I went back, there was a man shoveling  
6 snow digging out a car. When I saw that one was coming towards  
7 me and one from the other side, I did this with the magazine.

8 I did this with it and it fell like this to the side in the  
9 snow. I bent over to look for the gun like this and the old  
10 man told me where the gun had fallen, otherwise they wouldn't  
11 have gotten that gun."

12 Q. What do you understand Lobo to be talking about when they  
13 said, "I did like this" with the magazine?

14 A. I released the magazine.

15 MR. MURPHY: Objection.

16 THE COURT: Overruled.

17 Q. Can we turn to page 7, now, please. Toward the top of the  
18 page, the third time down where Lobo starts speaking?

19 A. Yes.

20 Q. I wanted to talk about that, too. I'll read the CW-1 part  
21 in the middle, just -- so I want you to read that starting  
22 there.

23 A. Okay.

24 Q. Thank you.

25 A. Lobo: "I wanted to talk about that, too. I was talking

1 with the compadre from whom it was bought, and if I can recover  
2 this, I will replace it because I have to get a gun so I will  
3 recover it and turn over to the MS-13."

4 Q. CW-1: "That's good."

5 A. Lobo: "So I was talking to the compadre, and I met with  
6 him and told him and he told me he was going to do everything  
7 he could. I can't say an exact date, but perhaps it won't be  
8 the same kind, but he did tell me he's going to give me a gun.  
9 I will buy it and turn over to you guys."

11:16AM 10 Q. Okay. That's fine there. And what do you understand Lobo  
11 to be saying?

12 A. That he was going to buy a replacement gun.

13 Q. For the clique?

14 A. For the clique.

15 MS. LAWRENCE: One moment, please. Nothing further,  
16 your Honor.

17 THE COURT: Cross, Mr. Iovieno.

18 CROSS-EXAMINATION

19 BY MR. IOVIENO:

11:16AM 20 Q. Good morning, sir.

21 A. Good morning, sir.

22 Q. My name is Thomas Iovieno. I represent Mr. Larios. You  
23 were involved in this investigation for approximately three  
24 years?

25 A. Yes.



1 Q. And, in fact, I think you testified you had picked up  
2 Pelon at the airport when he first arrived in the  
3 United States?

4 A. Yes, sir.

5 Q. And you speak fluent Spanish, correct?

6 A. I do.

7 Q. And I think you testified there was only two, you and  
8 another officer spoke Spanish as part of this investigation?

9 A. Correct.

11:17AM 10 Q. And it's fair to say that you've listened to hundreds of  
11 hours of tapes?

12 A. I've listened to hours and hours of tapes, yes.

13 Q. And you were able to identify voices and conversations and  
14 then relay that to the other members of the investigation,  
15 right?

16 A. Correct.

17 Q. And I think you said you spoke to CW-1, Pelon, almost  
18 daily, but on -- certainly several times a week, right?

19 A. Yes.

11:17AM 20 Q. And it's fair to say that you were aware that certain  
21 members would commit illegal activity that was not something  
22 that benefited MS-13 all the time, correct?

23 A. Correct.

24 Q. And you called that "freelancing," is that a term that  
25 you're familiar with?

1 A. I'm familiar with the term, yes.

2 Q. And that involved drug dealing, correct?

3 A. Yeah.

4 Q. Okay. And certain members did certain drug deals for  
5 their own personal benefit, right?

6 A. I don't know many that did, but yes.

7 Q. But you're familiar with that during the investigation?

8 A. Yes.

9 Q. And directing your attention, you talked about the  
11:18AM 10 December 8, 2014 drug protection detail. And just so we're  
11 clear, that was the only drug protection detail that involved  
12 Mr. Larios, correct?

13 A. Yes.

14 Q. Okay. And you're familiar with a report that was written  
15 about this December 14, 2014 protection detail, right?

16 A. Correct.

17 THE COURT: I'm sorry. You may have misspoken the  
18 date.

19 Q. December 8, 2014 drug protection detail.

11:19AM 20 A. Yes.

21 Q. And you're familiar that the investigation, someone wrote  
22 a report about this?

23 A. Okay.

24 Q. And did you write it?

25 A. I did not.

1 Q. Okay. Have you seen it before?

2 A. Yes.

3 Q. Okay. And are you aware that the target of that  
4 investigation, the person identified as Lobo was Jose Argueta  
5 Rodriguez?

6 A. Okay.

7 Q. Are you familiar with that?

8 A. Not necessarily, but I can see that happening.

9 MR. IOVIENO: This is just for the witness, your  
10 Honor.

11 A. I see it.

12 Q. I'd ask you to read the top portion to yourself.

13 A. Yes.

14 Q. So does that refresh your recollection whether or not the  
15 investigation into the December 8, 2014 had targeted Jose  
16 Argueta Rodriguez as Lobo?

17 A. Yes.

18 Q. And I think you indicated that -- well, you identified  
19 some videos, correct?

20 A. Yes.

21 Q. And those are just excerpts of the entire videos, right?

22 A. Correct.

23 Q. And it's a pretty lengthy video. There's different parts  
24 of it, but it's pretty long?

25 A. Yes.

1 Q. And it was the video depicting what was occurring inside  
2 CW-1's motor vehicle, right?

3 A. Yes.

4 Q. And you also had cameras -- well, the officers had  
5 stationary cameras that could take pictures?

6 A. The surveillance pictures at the end?

7 Q. Yes.

8 A. Yes.

9 Q. And, in fact, those are photographs taken by the  
11:20AM 10 investigating team, right?

11 A. Correct.

12 Q. And you also had an audio -- CW-1 was equipped with an  
13 audio recorder?

14 A. The vehicle was.

15 Q. And the entire conversations that were inside the motor  
16 vehicle were recorded, right?

17 A. As far as I know, yes.

18 Q. And you've identified a portion of them, a snippet of  
19 them, right?

11:21AM 20 A. Yes.

21 Q. Okay. And there's an English translation of the entire  
22 transaction, right?

23 A. Correct.

24 Q. And you've seen that?

25 A. Yes.

1 Q. And you've read that?

2 A. I have.

3 Q. And you understand that Lobo, as you refer to him, arrived  
4 at the location of the parking lot on his own in another  
5 vehicle, right?

6 A. Yes.

7 Q. And he was then called over to the vehicle that CW-1 was  
8 in, right?

9 A. Correct.

11:21AM 10 Q. And that's the photographs that you identified of him  
11 walking over early on in the blue jacket?

12 A. Yes.

13 Q. And he -- then at some point -- so it's fair to say he  
14 wasn't inside the car with CW-1 through the entire transaction,  
15 right?

16 A. Right.

17 Q. In fact, he was only in the car with CW-1 for a brief  
18 period of time, correct?

19 A. As far as I know, yes.

11:22AM 20 Q. Prior to the vehicles taking off, right?

21 A. Yes.

22 Q. Okay. And have you reviewed the transcript of the portion  
23 where Lobo was inside the motor vehicle?

24 A. Yes.

25 Q. And are you aware of the substance of the conversations

1 that CW-1 had with Lobo and the other people inside that motor  
2 vehicle?

3 A. Yes.

4 Q. Okay. And it's fair to say at no time during that  
5 conversation did CW-1 tell Lobo that he was carrying or picking  
6 up 5 kilos of cocaine?

7 A. No.

8 Q. And then Lobo got out of the car, right?

9 A. Yes.

11:22AM 10 Q. And he got into another car?

11 A. Yes.

12 Q. And then the investigation followed the vehicles as they  
13 left the parking lot, right?

14 A. Correct.

15 Q. And you had cameras with you, right?

16 A. Yes.

17 Q. And you followed the vehicles to Saugus?

18 A. Yes.

19 Q. And then the vehicles left Saugus and proceeded down I  
11:23AM 20 think it was 95 to 93?

21 A. Yeah.

22 Q. And then the vehicles -- well, you claim the vehicles went  
23 up to New Hampshire, all three vehicles?

24 A. Correct.

25 Q. And did you take a photograph of the vehicle you say

1 Mr. Larios was in in New Hampshire?

2 A. I don't have that photograph, no.

3 Q. Have you seen a photograph of his vehicle in  
4 New Hampshire?

5 A. No.

6 Q. And you testified when you came back, do you remember the  
7 testimony of the counting of the money?

8 A. Yes.

9 Q. And that CW-1 was counting the money inside a car?

11:23AM 10 A. Yes.

11 Q. And, in fact, you identified just a snippet of that  
12 transaction, right?

13 A. Correct.

14 Q. And, in fact, isn't it true, sir, that there's another  
15 portion of that video that was not shown to you that shows CW-1  
16 calling Lobo, right, on his telephone?

17 A. Okay.

18 Q. Because -- have you seen that?

19 A. Yes.

11:23AM 20 Q. Okay. And, in fact, in this video you see him putting the  
21 phone down in the center console, right?

22 A. Uh-huh.

23 Q. And he had actually called Lobo because he didn't know  
24 where he was, right?

25 A. Yes. This is at the end?

1 Q. Yes.

2 A. Yes.

3 Q. And he wanted to know where are you?

4 A. Right.

5 Q. And you heard that in Spanish, right?

6 A. I believe so, yeah.

7 Q. Okay. Come over to the car?

8 A. This is at the end? Yeah.

9 Q. Do you remember, could you hear what the speaker on the  
11:24AM 10 other end of the telephone call was saying?

11 A. I don't recall by memory exactly.

12 Q. But it was difficult to hear because it was not picked up  
13 by the recorder; is that fair to say?

14 A. Yes.

15 Q. So Lobo was not around at the end when they were counting  
16 the money until later on, right?

17 A. Correct.

18 MR. IOVIENO: One moment, your Honor.

19 Q. Now, you testified that when you went back and searched  
11:24AM 20 the area where Mr. Larios was arrested with the firearm, you  
21 found no ammunition and no clip?

22 A. Correct.

23 Q. And you went back that night?

24 A. Yes.

25 Q. And the information you got about the gun came directly



1 from CW-1, right?

2 A. Yes.

3 Q. And did you learn in your investigation that throughout  
4 the course of your interactions with CW-1 that he was truthful  
5 and honest with you on all occasions?

6 A. Did I?

7 Q. Yes.

8 A. Yeah, I mean I --

9 Q. You never learned any information that he had committed  
10 any illegal acts?

11 A. Yes.

12 Q. And so he never told you that during your conversations,  
13 did he?

14 A. Correct.

15 MR. IOVIENO: Thank you.

16 MR. MURPHY: Your Honor, may we approach?

17 THE COURT: Yes.

18 (THE FOLLOWING OCCURRED AT SIDEBAR:)

19 MR. MURPHY: If I understand correctly, the  
20 government --

21 THE COURT: Hold on.

22 MR. MURPHY: Sorry. The government intends to call  
23 this witness later as well.

24 MS. LAWRENCE: Yes, exactly.

25 MR. MURPHY: So I just want to make sure. I don't

1 have many questions anyway, but I'd just like to ask them all  
2 once after his second round of testimony, if that's consistent  
3 with the Court's wishes.

4 THE COURT: That's fine.

5 MR. IOVIENO: My understanding is he's coming back up.

6 MR. LOPEZ: When he comes back, is he going to testify  
7 about the May 12th Highland Park stabbing?

8 MR. POHL: No.

9 MR. MURPHY: That's my point is that I should be able  
10 to ask about on either round.

11 THE COURT: In other words, let's say he testifies A,  
12 B today, comes back in a couple days, testifies C, D. You can  
13 defer and cross-examine him on A, B, C, D on the second day.

14 MR. MURPHY: Exactly, your Honor.

15 MR. LOPEZ: I believe he had a very important  
16 conversation with CW-1 the evening of May 12, 2015 that I want  
17 to inquire into.

18 THE COURT: You don't have to defer, you can ask now.

19 MR. LOPEZ: I'll defer, but I just want to be able to  
20 be sure that I can inquire about that.

21 MR. POHL: We've represented that we will call him  
22 twice, so you're not going to miss having a chance to ask him  
23 questions if you don't ask them now.

24 THE COURT: If for some reason they don't, you can  
25 call him as your own witness if something happens.

1 MR. POHL: Our next, when we're done with that --

2 MR. LOPEZ: I don't have much.

3 THE COURT: Are you going to cross him now?

4 MR. LOPEZ: Just a couple of questions.

5 THE COURT: All right. Let's get it done and let's --  
6 we're losing all kind of time on these breaks, so let's just  
7 keeping pressing forward.

8 MR. POHL: Okay. Thank you.

9 (SIDEBAR CONFERENCE WAS CONCLUDED)

11:27AM 10 THE COURT: All right. Mr. Norkunas.

11 CROSS-EXAMINATION

12 BY MR. NORKUNAS:

13 Q. Good morning, Trooper. I had to check to make sure it's  
14 still morning.

15 A. Good morning, sir.

16 Q. In relation to the February, 2014, what you called a  
17 protection detail, you were present during that detail,  
18 correct?

19 A. Yes.

11:28AM 20 Q. And you've had an opportunity prior to coming in here  
21 today to refresh your memory or to look at reports that were  
22 done from that era; would that be fair to say?

23 A. Yes.

24 Q. Granted, they're four years ago, everybody would need to  
25 refresh their memory --

1 A. Of course.

2 Q. -- of what had taken place. And one of the reports was  
3 done also by a -- if I can have the right name, David  
4 Cedarleaf -- Cedarleaf?

5 A. Yes.

6 Q. Is he a trooper that was working with you?

7 A. No, he's an FBI agent.

8 Q. Okay. And would it be fair to say that when you were  
9 taking your observations of the activities that were going to  
10 take place on that day that initially Cesar Martinez shows up  
11 in what turns out to be a rental car with another individual to  
12 meet with CW-1 and Muerto?

13 A. Correct.

14 Q. And either in reviewing the tapes -- let me strike that.  
15 Were you contemporaneously able to hear the conversations of  
16 CW-1 and Muerto that day as they were taking place?

17 A. I don't believe that day, no. I don't remember that.

18 Q. So, when you heard conversations, they would have been  
19 from the recordings afterwards?

11:30AM 20 A. Yes. I know on one of the protection details we did have  
21 an active listening device, but I don't remember which one it  
22 was.

23 Q. Okay. If I showed you a report from that date, might that  
24 refresh your memory of whether that was the incident -- that  
25 was the event?

1 A. Sure.

2 Q. February 14th?

3 MR. NORKUNAS: May I approach briefly?

4 THE COURT: Yes.

5 A. Yes.

6 Q. Having looked at that, would that refresh your memory of  
7 whether it was the February 14th event?

8 A. Yes.

9 Q. Where you were able, that time, to --

11:31AM 10 A. Yes.

11 Q. -- contemporaneously hear what was being said?

12 A. Correct.

13 Q. And actually that report reflects someone was writing down  
14 times with events as well, correct?

15 A. Yes.

16 Q. In relation to that event, it was clear that CW-1 and  
17 Muerto, as you were listening to it, were having some problems  
18 with Mr. Martinez and his performance, right?

19 A. Correct.

11:31AM 20 Q. They wanted him to do something different than he was  
21 doing, correct?

22 A. Yes.

23 Q. And when the two cars arrived -- it was Derry,  
24 New Hampshire you went to, right?

25 A. I believe so, yes.

1 Q. When you arrived there, Mr. Martinez parks in a completely  
2 different area than where CW-1 and Muerto went to meet your  
3 other agent, correct?

4 A. Correct.

5 Q. And, again, the transaction starts in Saugus where there  
6 is an undercover agent giving a package to CW-1, correct?

7 A. Correct.

8 Q. And then when you get to Derry, New Hampshire, there's  
9 another undercover officer receiving that package and giving  
10 money to -- I believe it was CW-1, correct?

11:32AM

11 A. Correct.

12 Q. Okay. Relative to that incident, were there either a  
13 video or any photographs showing either CW-1 or Mr. Muerto  
14 actually handing cash to Cesar Martinez?

15 A. No, I don't think so.

16 Q. Now, in fact, after the cash comes into the car with  
17 Muerto and CW-1, Mr. Martinez leaves the parking lot on his  
18 own, correct?

19 A. Yes.

11:32AM

20 Q. He ends up you have some sort of -- the person that  
21 receives the package from you, he starts tailing that person,  
22 right?

23 A. Correct.

24 Q. Which is -- again, is an undercover officer, correct?

25 A. Yes.

1 Q. Now, prior to that incident taking place, you gave some  
2 instructions to CW-1 the night before in regard to Muerto,  
3 correct?

4 A. I don't recall that.

5 MR. NORKUNAS: If I may approach again?

6 THE COURT: Yes.

7 Q. I'm going to use the camera, it might be easier. When the  
8 event was over, do you hand CW-1 something? Do you give him  
9 back a knife?

11:33AM 10 A. I didn't personally, no.

11 Q. Did you know that that had occurred?

12 A. Yes.

13 Q. And whose knife was it?

14 A. I don't recall.

15 Q. Was it Muerto's knife?

16 A. I don't recall.

17 MR. NORKUNAS: If we could just have this for the  
18 witness.

19 Q. I'd ask you, sir, if you look at the time that's reflected  
11:34AM 20 there is 3:22 p.m.?

21 A. I see it.

22 Q. If you would read that to yourself for a moment.

23 A. Yes.

24 Q. Would that refresh your memory as to whose knife was given  
25 to CW-1?

1 A. Correct.

2 Q. It would have been Muerto's, right?

3 A. Correct.

4 Q. And had you, in fact, given instructions to CW-1 the night  
5 before to make sure that he was able to get Muerto's knife from  
6 him?

7 A. I don't recall that either.

8 MR. NORKUNAS: Again, just for the witness.

9 Q. If you look at the top -- and at some point in time if you  
11:35AM 10 read that to yourself beginning with CHS. CHS is CW-1,  
11 correct?

12 A. Correct. I see that.

13 Q. And it's fair to say -- does that refresh your memory that  
14 CW-1 obtained Muerto's knife the night before and gave it to  
15 your task force?

16 A. Correct.

17 Q. Do you recall what type of knife it would have been?

18 A. I never handled the knife.

19 Q. And would that have been because you were concerned for  
11:35AM 20 the safety of CW-1?

21 A. The knife?

22 Q. By Muerto, right?

23 A. Correct.

24 Q. Now, when this -- you indicated also that when the  
25 incident was over, there was then a debriefing of CW-1,



1 correct?

2 A. Yes.

3 Q. And as part of that, do you remember or do you recall that  
4 CW-1 told you that Muerto had called him and said that Checha  
5 was out and that we won't be using him anymore?

6 A. Yes.

7 Q. And, in fact, on the two subsequent protection details,  
8 Mr. Martinez is not involved at all, right?

9 A. Correct.

11:36AM 10 Q. Now, in terms of your involvement within the task force,  
11 do you have a recollection that Mr. Muerto was an individual  
12 that, in fact, sold crack cocaine to undercover agents?

13 A. Yes.

14 Q. I'm sorry.

15 A. Yes.

16 Q. And that that sale of his by Muerto to undercover agents  
17 been taking place for several years?

18 A. I don't remember exactly how long it was taking place, but  
19 I do remember him being involved in that.

11:37AM 20 Q. And if I showed you another document, see if this  
21 refreshes your recollection, excuse me. I'll get the word out  
22 eventually. Looking at that, particularly the date on the top,  
23 would that refresh your memory as to -- at least from 2014 on?

24 A. Yes.

25 Q. And those were direct sales by Mr. Muerto to undercover

1       operatives, correct?

2       A.     I don't believe they were direct sales.

3       Q.     Pardon me?

4       A.     I don't believe they were direct sales. I believe he  
5       bought it from somebody else or middled it is my recollection  
6       of it.

7       Q.     If -- the highlighted portion here, if you could read that  
8       to yourself.

9       A.     Yes. I see that.

11:38AM 10      Q.     Okay. And UCE would have been your undercover officer,  
11       correct?

12      A.     Correct.

13      Q.     And he was buying directly from Mr. Muerto, correct?

14      A.     Correct.

15      Q.     And that was at least in 2014 and you have no basis to  
16       know it did not discontinue after that, correct?

17      A.     I know it stopped at some point. I don't know how long it  
18       went for.

19      Q.     Now, as part of the investigation that you had ongoing,  
11:39AM 20      did you ever determine whether Cesar Martinez had any tattoos?

21      A.     Tattoos?

22      Q.     Tattoos.

23      A.     I did not personally, no.

24      Q.     Did you ever come to find out if he had any tattoos?

25      A.     Maybe other agents on the task force, but not myself

1 personally.

2 Q. And, again, this was an investigation that began in 2012,  
3 right?

4 A. 2014.

5 Q. Did it begin in December of 2012 initially?

6 A. I don't believe so.

7 Q. Did Sergeant Millett began an investigation in  
8 September of 2012? You don't have a memory of that, correct?

9 A. No.

11:39AM 10 Q. Okay. But as the investigation began, did you look into  
11 who these people were that you were investigating? Can you  
12 tell us the individuals, did you make a determination who  
13 Cesar Martinez was?

14 A. I didn't personally. I mean, we tried. Yeah, we tried to  
15 get as much information as we can.

16 Q. Okay. And did you receive any type of --

17 MR. NORKUNAS: For the witness only again, please.

18 Q. Did you receive any type of documentation as to where  
19 Cesar Martinez had been living from 2008 forward?

11:40AM 20 A. I have never seen that document before.

21 Q. I'm sorry.

22 A. I've never seen that document before.

23 Q. I'm just asking if that would refresh your memory, if you  
24 had seen such a document.

25 A. I have not.

1 Q. Did you make any -- were you able to make any  
2 determination as to where he had been living say in 2008?

3 A. I have not.

4 Q. And, again, you had a comprehensive North Shore Gang Task  
5 Force, correct?

6 A. Correct.

7 Q. Within that you had representatives from Homeland  
8 Security, correct?

9 A. Yes.

11:41AM 10 Q. Carolyn Scott, was she Homeland Security?

11 A. I don't know who that is.

12 Q. Okay. And if you needed documents relative to any  
13 individuals from Homeland Security, you asked that person, can  
14 you get us these documents, correct?

15 A. We had a representative, yeah. We would ask. Yeah.

16 Q. Right. And if you wanted to know if there was  
17 documentation on a particular person either as to their  
18 immigration status or where they were living or had reported  
19 living in a particular year, you could obtain that, correct?

11:41AM 20 A. Yes.

21 MR. NORKUNAS: Judge, may I be seen for a moment at  
22 sidebar?

23 THE COURT: Okay.

24 (THE FOLLOWING OCCURRED AT SIDEBAR:)

25 THE COURT: Yes.

1 MR. NORKUNAS: Judge, this is a copy of a form for a  
2 work authorization that was filed in 2008 by Mr. Martinez which  
3 shows that he was living in Revere. I don't believe the  
4 government is contesting the validity of the document, and what  
5 I would be seeking to do at this point in time, although he  
6 cannot specifically identify it, the government is not  
7 challenging the validity, I offer this.

8 MR. POHL: Mr. Norkunas and I conferenced this issue  
9 prior to today, and I advised him and he's represented  
10 11:42AM correctly that we certainly weren't going to ask for a Keeper  
11 of the Records or something to authenticate the document, that  
12 I'm sure it's authentic. We told him then and I would say  
13 again now that I don't see the relevance of the document, and  
14 we'd object on those grounds for it to be admitted.

15 THE COURT: I guess I don't see the relevance unless  
16 it's tied into something.

17 MR. NORKUNAS: May I address that?

18 THE COURT: Yes.

19 MR. NORKUNAS: The relevance would be that it would  
20 11:43AM come in as a business record, and it shows that he is  
21 representing to a government agency that he lived in Revere,  
22 when Mr. Muerto in 2008 was contending that he lived in East  
23 Boston, and, therefore, was able to do some sort of violent act  
24 at Maverick Street Station.

25 THE COURT: But you didn't use it with Muerto, you're

1 using with this guy who said he's never seen it before, so  
2 let's do this. Asking this witness about it isn't going to do  
3 any good. He's said he's never seen it before. Let's talk  
4 about this later.

5 And I'm seeing you every morning at 8:30 not to get  
6 you out of bed early but because I want to minimize sidebars,  
7 and we keep having sidebar conferences about things that we  
8 could take up in the morning, okay, and this is a good example  
9 of it. We're bogging down in the conferences, but I'm not  
10 excluding it. It just it seems to me that it certainly isn't  
11 relevant to this witness, and so let's take it up at the break.

12 (SIDEBAR CONFERENCE WAS CONCLUDED)

13 THE COURT: Go ahead, Mr. Norkunas.

14 MR. NORKUNAS: Thank you, Judge.

15 Q. Now, you've indicated that you had listened to a number of  
16 the CDs in this case; is that correct?

17 A. Yes.

18 Q. Did you listen to or can you recall if you had listened  
19 to --

20 MR. NORKUNAS: If I could see 207, please, for the  
21 witness.

22 Q. Do you recall if you had listened to a CD involving an  
23 ESLS meeting on January 8, 2016? That was the Animal beating  
24 as it's being referred to.

25 A. Yes.

1 Q. And did you have an opportunity to initially listen to  
2 that in Spanish?

3 A. Correct.

4 Q. And then had you had an opportunity to consider -- and you  
5 were able to identify speakers within that from your  
6 familiarity with different people?

7 A. Yes.

8 Q. And if I may show the witness. Sir, do you recall from  
9 your -- excuse my voice. Can you recall, sir, that there had  
10 been a discussion in that meeting in which CW-1 was attempting  
11 to chastise Mr. Martinez?

12 MS. LAWRENCE: Objection, your Honor. I don't believe  
13 he established a foundation that this witness has read that  
14 transcript as opposed to listening to the recording.

15 THE COURT: Well, I didn't quite hear all that, but he  
16 did say that he listened to the recording, so he's asking a  
17 question about a subject matter. I'll allow that. Go ahead.

18 Q. Do you recall part of that recording you had listened to,  
19 Trooper, in which CW-1 was having a conversation and citing  
20 specifics to Mr. Martinez and chastising him?

21 A. Yes.

22 Q. And is it fair to say that he was chastising him about  
23 Mr. Martinez having openly spoken to he, CW-1, several days  
24 before that he was tired of the young people coming in and  
25 causing problems for the shop, he said, right?

1 A. I don't remember the details. I remember the incident.

2 Q. Well, again, does that -- the page I've put in front of  
3 you, does that refresh your memory if you read the bottom  
4 portion, CW-1?

5 A. Yes.

6 Q. And showing you again another portion from CW-1 of that  
7 same transcript, the ensuing page, if you read that to yourself  
8 beginning here --

9 THE COURT: Is this Exhibit 122 or is this not in  
10 evidence?  
11:48AM

11 MR. NORKUNAS: This portion of it is not, Judge. I  
12 could move these two pages into evidence. It would perhaps  
13 save some time.

14 MS. LAWRENCE: We would object as far as CW-1's  
15 statements don't come in for the truth, so I'm not sure what  
16 the point of admitting it in substantive evidence would be.

17 THE COURT: Let's just do it this way for now.

18 Q. Does that refresh your memory that Mr. Martinez had spoken  
19 up to the group about bringing in the young kids who were  
20 causing problems for his shop?  
11:48AM

21 A. Yes.

22 Q. And when he says his shop, did you come to know that he  
23 was running some sort of mechanical tow business out of  
24 Mr. Gonzalez' shop?

25 A. I didn't personally know that, no.



1 Q. And had CW-1 come and debriefed you on that at all prior  
2 to the meeting with Animal in the shop that there were  
3 problems?

4 A. No.

5 MR. NORKUNAS: Judge, at this point in time I would  
6 have no further questions.

7 THE COURT: Okay. All right. Mr. Murphy.

8 MR. MURPHY: No questions at this time, your Honor.

9 THE COURT: Mr. Lopez.

11:49AM 10 MR. LOPEZ: Your Honor, just a few questions.

11 CROSS-EXAMINATION

12 BY MR. LOPEZ:

13 Q. Good morning, Trooper Estevez.

14 A. Good morning, sir.

15 Q. My name is Scott Lopez, I represent Mr. Guzman. You  
16 earlier in your testimony made a distinction between a  
17 confidential informant and a cooperating witness?

18 A. Correct.

19 Q. And a confidential informant is someone that you use after  
11:50AM 20 a crime has been committed?

21 A. It's a person that gives information.

22 Q. But usually it's someone --

23 A. It could be before, it could be after, it could be during.

24 Q. Whereas a cooperating witness is someone who proactively  
25 goes out and gathers evidence for you? Yes?

1 A. Yes.

2 Q. Okay. Now, you talked about the arrest of Vida Loca and  
3 you spoke about a procedure you use which you called a  
4 wall-off?

5 A. Yes.

6 Q. And the shooting occurred on December 14th, right?

7 A. Yes.

8 Q. The arrest occurred on December 16th?

9 A. Correct.

11:51AM 10 Q. And you didn't write any reports about that arrest, did  
11 you?

12 A. No. I did not arrest him.

13 Q. But a Benjamin Wallace did?

14 A. Okay.

15 Q. And who's Benjamin Wallace?

16 A. He's an FBI agent.

17 Q. And did he talk to you about the information he was  
18 gathering before writing his report?

19 A. No.

11:51AM 20 Q. And do you recall an interview in February of 2015 with  
21 the confidential witness we've heard in this case was called  
22 Mako or Pelon?

23 A. You'd have to be more specific.

24 Q. Okay. Well, do you know whether or not there was an  
25 interview of the confidential informant where Assistant U.S.

1 Attorney Peter Levitt was present, Special Agent Benjamin  
2 Wallace was present, Massachusetts State Police Trooper Mario  
3 Millet, who I believe you said is your supervisor --

4 A. Yes.

5 Q. - was present, And the linguist Deborah Huacuja was  
6 present, as well as the confidential informant?

7 A. I wasn't there though, right?

8 Q. Now, I think you testified that the confidential informant  
9 contacted you upon learning from Crazy that he wanted -- that  
10 Crazy wanted to move Vida Loca out of the state?

11:52AM

11 A. Yes.

12 Q. Right? And you decided that a wall-off was the best way  
13 to accomplish that?

14 A. The task force did.

15 Q. What's that?

16 A. The task force.

17 Q. The task force. Well, were you involved in that decision  
18 making?

19 A. Yes.

11:53AM

20 Q. And that was your preferred approach because you wanted to  
21 stop the car for a legitimate reason to protect CW-1?

22 A. Right, MS-13 is known for killing their informants, so we  
23 wanted to make sure that didn't come back to him.

24 MR. MURPHY: Objection, your Honor, motion to strike.

25 THE COURT: Well, I'll let it stand. Overruled.

1 Q. The pretext was that there was going to be a broken tail  
2 light or a tail light that wasn't working?

3 A. Right, a tail light wasn't working.

4 Q. A tail light, in fact, wasn't working?

5 A. Correct.

6 Q. And did you later learn that it was the confidential  
7 informant Pelon or Mako who actually unscrewed the brake light  
8 on his vehicle prior to the stop?

9 A. So I heard about that, but I don't believe that to be  
11:53AM 10 true.

11 Q. So what CW-1 told Special Agent Wallace you don't believe  
12 to be true?

13 A. I don't know what he told him or not.

14 Q. Well, do you know that he also told him that prior to  
15 the -- prior to the traffic stop and Vida Loca's arrest in this  
16 investigation, CS1 or CW-1 did tell Trooper Estevez that his  
17 brake light was not working?

18 A. Can you repeat that?

19 MS. LAWRENCE: Objection, your Honor.

11:54AM 20 THE COURT: Sustained.

21 Q. Do you recall CW-1 telling you before the wall-off stop  
22 that his brake light was not working?

23 A. I made the observation of his brake light not working  
24 prior to anybody telling me, or any bulbs being taken out. I  
25 don't know anything about that, but I made the observation that

1 his brake light wasn't working, and I relayed that information  
2 to surveillance.

3 Q. And did you know that CW-1 stated that he unscrewed the  
4 brake light so that, in CSI's mind or CW-1's mind, law  
5 enforcement would have a legitimate reason to stop his vehicle  
6 if Vida Loca was in the car?

7 MS. LAWRENCE: Objection.

8 THE COURT: Sustained. You already asked him that.

9 Q. Did anyone ever tell you that that's what CW-1 told  
10 Special Agent Wallace after the fact?

11 MS. LAWRENCE: Objection.

12 THE COURT: Sustained.

13 MR. LOPEZ: Well, can I have the document camera.

14 THE COURT: You're asking this witness about something  
15 CW-1 said to someone else when he wasn't there, so I don't see  
16 how you're going to get there.

17 Q. Well, you have reviewed all the reports that have been  
18 written in this case, right?

19 A. Not all of them.

11:56AM 20 Q. You haven't?

21 A. Not every report, no.

22 Q. No? And I take it that you haven't actually reviewed the  
23 report that detailed the arrest of Vida Loca that you just  
24 testified about?

25 A. I didn't write that report.

1 Q. But did you review the report, sir?

2 A. I did not, sir.

3 Q. So it's your testimony here today that you came in to  
4 testify about an event that happened in December of 2014 and  
5 you didn't review every report written about that event?

6 A. I'm only talking about what I know and what I did, so I  
7 don't know why I would need to read somebody else's report.

8 Q. Sir, the question is did you review all of the reports  
9 related to Vida Loca's arrest on December 16, 2014?

11:56AM 10 A. No.

11 MR. LOPEZ: No further questions, your Honor.

12 THE COURT: Redirect.

13 MS. LAWRENCE: Yes, please.

14 REDIRECT EXAMINATION

15 BY MS. LAWRENCE:

16 Q. Trooper Estevez, you were asked a question or two on  
17 cross-examination and were shown a report about the December 8,  
18 2014 drug protection detail and an individual was listed there  
19 by the name of Jose Argueta Larios, a.k.a Lobo?

11:57AM 20 A. Correct.

21 Q. Was the Lobo that you saw when you were conducting  
22 surveillance of the December 8, 2014 drug protection detail the  
23 same Lobo you've identified here in court today?

24 A. Yes.

25 Q. Okay. You also were asked some questions about where Lobo

1 was located at the end -- toward the end of the drug protection  
2 detail, that you had seen him outside the car?

3 A. Yes.

4 Q. And that you saw him on the video inside CW-1's car for a  
5 short period of time?

6 A. Right.

7 Q. What happened while Lobo was in the car with CW-1 at the  
8 end of the drug protection detail?

9 A. He was paid.

11:57AM 10 Q. And why did he get paid?

11 A. For being present for the drug protection detail.

12 Q. Okay. You were also asked a question or two about the  
13 February 14, 2014 protection detail and specifically about a  
14 statement that Muerto might have made about not inviting Checha  
15 back to do another drug protection detail?

16 A. Correct.

17 Q. To your knowledge, did Checha ever say that he did not  
18 want to participate in another protection detail?

19 A. No.

11:58AM 20 Q. Okay. And also in that February 14 protection detail, you  
21 were on surveillance, yes?

22 A. Yes.

23 Q. Okay. And you were asked some questions about how  
24 Checha's car pulled off and followed a different car on the  
25 return trip to Massachusetts; is that right?

1 A. Correct.

2 Q. Okay. Did you in the course of surveillance see what  
3 happened to Checha's car after it left trailing CW-1's car?  
4 Did he rejoin the group, is my question?

5 A. Yes.

6 Q. Okay. And did he arrive back in Massachusetts together  
7 with CW-1?

8 A. Yes.

9 MS. LAWRENCE: Okay. Nothing further, your Honor.

11:59AM 10 THE COURT: Any recross?

11 MR. NORKUNAS: Very brief, Judge. If I may do it from  
12 here?

13 THE COURT: Yes.

14 RECROSS-EXAMINATION

15 BY MR. NORKUNAS:

16 Q. Trooper, you never had any conversation with Mr. Martinez  
17 after February 14, 2014, correct?

18 A. Correct.

19 Q. And to your knowledge CW-1 never had any conversation with  
11:59AM 20 him in terms of participating in a protection detail that you  
21 were aware of or heard recorded, correct, after February 14,  
22 2014, correct?

23 A. Correct.

24 Q. And nor did you ever hear any recorded conversations with  
25 Mr. Muerto after he had told CW-1 that Checha is fired about



1 Mr. Martinez participating in any further protection details,  
2 correct?

3 A. Correct.

4 MR. NORKUNAS: Thank you, Judge.

5 THE COURT: All right. Thank you, you may step down.  
6 We'll take a break.

7 THE CLERK: All rise.

8 (A recess was taken.)

9 THE CLERK: All rise for the jury.

12:14PM 10 (JURORS ENTERED THE COURTROOM.)

11 THE CLERK: Thank you.

12 THE COURT: Mr. Pohl.

13 MR. POHL: Thank you, your Honor. The government  
14 calls Scott Conley.

15 SCOTT CONLEY, having been duly sworn by the Clerk,  
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. POHL:

19 Q. Good afternoon, sir.

12:14PM 20 A. Good afternoon.

21 Q. Could you please introduce yourself to the ladies and  
22 gentlemen of the jury.

23 A. My name is Scott Conley, C-o-n-l-e-y.

24 Q. Where do you work?

25 A. In the Chelsea Police Department.

1 Q. How long have you worked for the Chelsea Police  
2 Department?

3 A. Approximately 23 years.

4 Q. And what's your rank?

5 A. I'm a detective.

6 Q. In addition to your work with the Chelsea Police  
7 Department, do you work on a federal task force?

8 A. Yes, I do.

9 Q. And what is that?

12:15PM 10 A. I'm a task force officer with the Federal Bureau of  
11 Investigation Gang Task Force here in Boston.

12 Q. How long have you been a member of the FBI Gang Task  
13 Force?

14 A. Approximately 14 years.

15 Q. Detective Conley, you participated, through the task  
16 force, in an investigation into MS-13; is that correct?

17 A. Yes, I did.

18 Q. All right. And I'd like to ask you a few questions about  
19 a particular day, which is February 14, 2014. Do you remember  
12:15PM 20 if you were working on that day?

21 A. Yes, I do.

22 Q. All right. And do you remember what you and the task  
23 force -- what investigative technique you and the task force  
24 utilized that day?

25 A. Yes, we were conducting an operation, a surveillance

1 operation that involved what we called a protection detail  
2 doing the surveillance on the transport of narcotics.

3 Q. Okay. And to be clear, the task force utilized this on I  
4 think three different occasions; is that correct?

5 A. Yes, it is.

6 Q. All right. And did you participate in all three?

7 A. Yes, I did.

8 Q. All right. I'm just going to ask you about the  
9 February 14th, 2014 protection detail here. What was your job  
10 that day?

12:16PM

11 A. I was one of the surveillance vehicles.

12 Q. And do you recall, Detective Conley, sort of how the  
13 protection detail unfolded on February 14, 2014?

14 A. I do.

15 Q. All right. What can you tell the jury?

16 A. The cooperating witness would meet task force officers at  
17 a predetermined location. There would be some administrative  
18 things that would take place then to include the searching of  
19 the vehicle and searching of the cooperating witness. Contact  
20 would be made and sometimes prearranged on which individuals  
21 were going to be participating in the protection detail.

12:17PM

22 On this day, I believe, there were two additional  
23 individuals. We would have -- we would have an operations  
24 order kind of given out at that time at the predetermined  
25 location and then surveillance vehicles would then be

1       dispatched to specific locations.

2       Q.     Okay. And that happened that day, correct?

3       A.     Yes, it did.

4       Q.     And where did you go sort of at the beginning of the  
5       investigation -- at the beginning of the protection detail,  
6       what was your -- where did you travel to?

7       A.     I was one of the surveillance vehicles that traveled in  
8       the area of Central Ave. in Chelsea, Massachusetts.

9       Q.     Okay. And did you identify the parties that were going  
12:17PM 10      with CW-1 on the February 14, 2014 protection detail?

11      A.     Yes.

12      Q.     Who were they?

13      A.     Muerto and Checha.

14      Q.     Do you see Checha in court today?

15      A.     I do.

16      Q.     All right. Could you point him out to the ladies and  
17      gentlemen of the jury?

18      A.     Yes, he's the gentleman sitting at the table. He has  
19      black hair, looks like a checkered shirt and a tie.

12:18PM 20      Q.     All right. Thank you.

21               MR. POHL: I'd ask that the record reflect that  
22      Detective Conley has identified Mr. Martinez.

23               THE COURT: Yes.

24               MR. POHL: Thank you.

25      Q.     All right. So, do you remember where the first

1 time -- well, did you see Cesar Martinez on February 14, 2014?

2 A. I did.

3 Q. When was the first time you remember seeing him?

4 A. I believe it was 118 Central Ave. in front of a house on  
5 Central Ave.

6 Q. Okay. And walk the jury through what you did next that  
7 day. Where did you go once you saw Cesar Martinez?

8 A. I continued to do the surveillance along with other task  
9 force agents. The surveillance brought us through Chelsea up  
10 Route 1, north towards the Kowloon Restaurant on Route 1 in  
11 Saugus.

12 There was a brief stop there where surveillance  
13 continued. Vehicles then left that location and headed up  
14 towards Salem, New Hampshire where the surveillance again  
15 continued. They met additional parties, narcotics were  
16 exchanged, and then we headed back down 93 south towards I  
17 believe Somerville.

18 Q. And how many cars were you surveilling on that day?

19 A. I was surveilling two.

12:19PM 20 Q. All right. And one of them involved the car driven by  
21 CW-1?

22 A. That's correct.

23 Q. What about the second car?

24 A. The second car was operated by Checha, Cesar Martinez. I  
25 believe it was a blue Honda.

1 Q. And sort of where was that car during your surveillance  
2 activities that day as it followed, starting in Saugus, heading  
3 up to New Hampshire and then on the way back?

4 A. The second car was conducting surveillance for the first  
5 car, so the blue Honda that was operated by Checha was  
6 conducting surveillance for the second car, which was operated  
7 by the cooperating witness.

8 Q. And inside that car with the cooperating witness was who?

9 A. Muerto.

12:20PM 10 Q. All right. So, Detective Conley, what kind of car were  
11 you driving that day on February 14, 2014. Do you remember?

12 A. I do.

13 Q. What was it?

14 A. It was a dark-colored Ford F150 pickup truck.

15 Q. Okay. And when you're conducting a surveillance on an  
16 operation like this, is it fair to say that you want -- you're  
17 not using a marked police car; is that correct?

18 A. That's correct. We use unmarked police vehicles.

19 Q. And do you recall, Detective Conley, whether the Ford  
12:20PM 20 pickup truck that you were operating that day, whether it did  
21 or did not have a front license plate?

22 A. I do.

23 Q. What do you remember about the license plate?

24 A. I did not have a front license plate.

25 MR. POHL: Can I have Exhibit 56.3, which is in

1 evidence.

2 Your Honor, ladies and gentlemen of the jury, that's a  
3 transcript. If you want to pull that out of your binders. And  
4 your Honor, at this time -- I think we discussed this earlier  
5 this week, but I'd like to just notice a stipulation of the  
6 parties concerning this particular page. And that is that  
7 while the content of this call, I think, has been the subject  
8 of earlier testimony, that the top section concerning times and  
9 the phone numbers, during the course of the trial, the parties  
10 noted a typographical error.

12:21PM

11 I don't think there's been any testimony about the top  
12 of the page, but to the extent the jurors may have made a note  
13 about the top of the page before today that the parties  
14 stipulate and agree that that page was swapped out. This page  
15 is correct and the parties have entered this as an amended  
16 exhibit.

17 THE COURT: All right.

18 MR. POHL: Thank you.

19 THE COURT: And that went to one of the phone numbers?

12:22PM

20 MR. POHL: That's correct.

21 THE COURT: Okay. Go ahead.

22 Q. All right. So, Detective Conley, can you see that?

23 MR. POHL: Can I have the document camera for the  
24 witness.

25 THE CLERK: Just the witness?

1 MR. POHL: No, this is in evidence. Thank you.

2 Q. Can you see that, Detective?

3 A. Yes, I can. Thank you.

4 Q. All right. So, first of all, let me ask you a couple  
5 questions about the top of the page, all right. Are you aware  
6 during the course of this investigation whether the cooperating  
7 witness had something called a consensual T3 or Title III on  
8 his phone?

9 A. Yes, I am aware of that.

12:23PM 10 Q. And in layman's terms, what does that mean?

11 A. We are monitoring his phone calls.

12 Q. So all the calls that came into that phone were recorded?

13 A. That's correct.

14 Q. And it recorded the phone numbers that came in, correct?

15 A. Yes.

16 Q. And the phone numbers that CW-1 called out on?

17 A. That's correct.

18 Q. And so on the top of this page is an incoming telephone  
19 number. Do you recognize that?

12:23PM 20 A. I do.

21 Q. And so incoming would be from another phone number coming  
22 into CW-1's phone?

23 A. That's correct.

24 Q. All right. And the incoming telephone number on this page  
25 is 781-521-8365; is that correct?



1 A. Yes, sir.

2 Q. All right. And the telephone number to the right of that  
3 target, is that CW-1's phone, or the one that was used in this  
4 case?

5 A. Yes, it is.

6 Q. All right. That has a date, correct, February 14, 2014?

7 A. That's correct.

8 Q. And a time of -- a military time of 15:01:33 which is just  
9 after 3:00, correct?

12:24PM 10 A. That's correct.

11 Q. All right. I'm going to read CW-1. Detective Conley, I'd  
12 ask you to read the portion that's been previously identified  
13 as the voice of Cesar Martinez, Checha.

14 CW-1: "What's up? What's up, Checha, Checha. What's  
15 going on?"

16 A. "There goes the truck and the -- again along Central  
17 Street, man."

18 Q. CW-1: "Don't fuck with me. Where is the truck?"

19 A. "It's on Central Street right now. I'm telling you, I  
12:24PM 20 just saw it. As I was coming down, it's on Central Street  
21 right now, dude."

22 Q. CW-1: "Well I'm here already on Central Street, dude."

23 A. "Well, there goes the son of a bitch right now, right here  
24 at the light by the car wash. It went up the -- it went up  
25 that way right now, the son of a bitch, watch out for it."

1 Q. CW-1: "Don't fuck with me. Here, by the car wash?"

2 A. "No, on Central Street, Central. It's going up the  
3 truck."

4 Q. "Oh, on Central?"

5 A. "It's on Central, look for it."

6 Q. CW-1: "Check the plate or something. Tell me what you  
7 see."

8 A. Can you just slide it up a little bit?

9 Q. Yeah, apologies.

12:25PM 10 A. "The whore doesn't have a front plate."

11 Q. CW-1: "It has no plate, all right."

12 Do you recall, Detective Conley, while you were  
13 conducting the surveillance on the way back from New Hampshire  
14 whether you observed Mr. Martinez in the area of Central Street  
15 in Chelsea?

16 A. Yes, I do.

17 Q. Detective, I'm going to jump to January 29, 2016 and ask  
18 if you recall whether that was a significant date in the course  
19 of this investigation?

12:26PM 20 A. Yes, it was.

21 Q. All right. And would it be fair to say that that was the  
22 date that a series of arrest warrants were executed in  
23 connection with a number of defendants charged in this case?

24 A. That's correct.

25 Q. All right. Now, were you present on a -- did you

1 participate in those arrests?

2 A. Yes.

3 Q. All right. To be clear, you did not participate in the  
4 arrest of Cesar Martinez, correct?

5 A. That's correct.

6 Q. All right. Were you aware, through your work on the  
7 investigation, that a number of the targets in the  
8 investigation were arrested in or around the City of Chelsea?

9 A. That's correct.

12:26PM 10 Q. All right. And was there a plan in place to sort of help  
11 process defendants that were arrested in that vicinity prior to  
12 being taken to federal court?

13 A. Yes.

14 Q. What can you tell the jury about that?

15 A. We call it --

16 MR. MURPHY: Objection, your Honor. Relevance.

17 THE COURT: Well, I assume it's a lead in to something  
18 else. Overruled.

19 MR. POHL: It is, thank you.

12:27PM 20 Q. Detective.

21 A. We call it a courtesy booking procedure where we would  
22 assist with taking down the vital information of the individual  
23 that was in custody. We would take that information down. We  
24 would create a booking page and then we'd pass that booking  
25 page onto federal partners when we conducted the transport over

1 to a federal facility.

2 Q. All right. So Detective Conley in the course of your  
3 duties as a police officer, have you been asked to book persons  
4 that have been placed under arrest?

5 A. Yes, I have.

6 Q. And are you familiar with whether or not the Chelsea  
7 Police Department has a standard practice or procedures  
8 concerning how individuals that are placed under arrest are to  
9 be booked?

12:27PM 10 A. Yes.

11 Q. And what kind of questions are typically asked of persons  
12 that are booked in the Chelsea Police Department booking  
13 process?

14 A. Name, date of birth, home address, phone number, married,  
15 questions like that.

16 MR. POHL: Okay. Can I have Exhibit 59 for the  
17 witness.

18 Q. Can you see that, Detective Conley?

19 A. I can.

12:28PM 20 Q. And what is it?

21 A. It's a Chelsea Police cover sheet of an arrest number  
22 16111. It would be the document that would be produced during  
23 and at the time of booking.

24 Q. Okay. And this booking sheet was dated January 29, 2016?

25 A. That's correct.

1 Q. And the individual listed on the booking sheet is who?

2 A. Cesar Antonio Martinez.

3 MR. NORKUNAS: Objection, Judge.

4 THE COURT: I'll allow that, but go ahead.

5 Q. And pursuant to the sort of policies and practices of the  
6 Chelsea Police Department that you described before, we don't  
7 need to get into all of the information, but it's fair to say  
8 that the types of questions that you talked about earlier are  
9 answered on this page?

12:29PM 10 A. Yes.

11 Q. Name, height, weight, biographical information, correct?

12 A. That's correct.

13 Q. What about the phone number?

14 A. That's correct. It does appear on this booking sheet.

15 Q. Okay. What phone number is listed on the booking sheet?

16 MR. NORKUNAS: Objection, Judge.

17 THE COURT: Sustained.

18 MR. POHL: I'd offer the document, your Honor.

19 MR. NORKUNAS: I'd object, Judge.

12:29PM 20 THE COURT: The objection is overruled. It's admitted  
21 59.

22 (Exhibit No. 59 received into evidence.)

23 MR. POHL: For the jury.

24 THE CLERK: Yes.

25 Q. Detective, there's a phone number listed on the booking

1 sheet; is that correct?

2 A. Yes, sir.

3 Q. All right. And what phone number is that?

4 A. 781-521-8365.

5 Q. Okay. And the information that is provided on the booking  
6 sheet, okay. Where does -- when you conducted a booking, where  
7 do you get that information from?

8 A. From the individual that is in custody.

9 MR. POHL: And if I could again have the document  
10 camera for the witness and for the jury, 56.3 in evidence.

11 Q. Again, the telephone number for the February 14, 2014 call  
12 from -- to CW-1 was 781-521-8635?

13 A. Yes, sir. That's correct.

14 Q. Same phone number as on the booking sheet?

15 A. Yes, it is.

16 MR. POHL: Thank you very much.

17 THE WITNESS: Thank you.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 BY MR. NORKUNAS:

21 Q. Detective, did you participate in activities other than  
22 doing a surveillance on February 14, 2014?

23 A. I was primarily just doing surveillance that day.

24 Q. So you were to be a follow-on vehicle that day was your  
25 function; is that correct?

1 A. A surveillance vehicle, that's correct.

2 Q. So you weren't having any contemporaneous monitoring of  
3 conversation between any parties present, and you ended when it  
4 appears from the Exhibit 56.3 that you're on Central Street,  
5 you're home, right?

6 A. That's correct, doing surveillance.

7 Q. The day is done at that point in time, right?

8 A. I'm sorry.

9 Q. And the day is done at that point, you're home. Once the  
12:31PM 10 surveillance came down to Central Street in Chelsea, that ends  
11 for you, right?

12 A. No, I continued the surveillance up to Saugus and then up  
13 towards New Hampshire and then back down again on Route 93.

14 Q. Okay. So this is on the way up, not on the way back. The  
15 transcript that you read 56.3, the observations of seeing you  
16 on Central Street is beginning. That's at the end, correct?

17 A. I believe that is at the end, yes.

18 Q. Which would have ended your function as a surveillance  
19 officer at about that time as well, correct?

12:32PM 20 A. Once that surveillance was done that day, I ended my  
21 participation, I'm done.

22 THE COURT: Any redirect?

23 MR. POHL: No.

24 THE COURT: I'm sorry, Mr. Murphy.

25

1 CROSS-EXAMINATION

2 BY MR. MURPHY:

3 Q. Good afternoon, Officer -- Detective. My name is Marty  
4 Murphy, and I represent Mr. Sandoval. You had worked on this  
5 investigation from the very start, correct?

6 A. Yes.

7 Q. As a matter of fact, you were one of the folks who went to  
8 El Salvador to meet the person who later became known as Pelon  
9 in the first instance, correct?

12:33PM 10 A. Yes.

11 Q. And that was in 2012, correct?

12 A. That sounds correct, yes.

13 Q. And eventually he was brought back here to Massachusetts  
14 and set up in business, correct?

15 A. He was brought back to Massachusetts.

16 Q. And did there come a time when he began to operate as a  
17 gypsy cab driver?

18 A. There was a time that he was operating, giving rides, in  
19 that capacity, correct.

12:33PM 20 Q. And when was that, sir?

21 A. During the investigation. I really can't be sure when  
22 that started or when that ended.

23 Q. Now, as part of the investigation there was an agent from  
24 Homeland Security assigned, correct?

25 A. I'm not sure.



1 Q. Did you ever interact with an agent from Homeland Security  
2 during the course of this investigation?

3 A. I'm really not sure if I had a name.

4 Q. As a member of the Chelsea Police Department, do you have  
5 occasion from time to time to deal with folks from Homeland  
6 Security?

7 A. Yes.

8 Q. And do you have occasion from time to time to check on the  
9 immigration status of individuals that you come into contact  
10 with in your job?

12:34PM

11 A. Yes.

12 Q. And sometimes it's important for you to know whether an  
13 individual is in the United States legally or is in the  
14 United States illegally, correct?

15 A. Yes.

16 Q. Now, are you aware from your participation in this  
17 investigation that in late October 2015, an individual named  
18 Irvin De Paz was stabbed in East Boston?

19 A. Yes.

12:34PM

20 Q. And are you aware from your participation in this  
21 investigation that in early October, on October 2, 2015, an  
22 individual named Joel Martinez confessed to the confidential  
23 informant that he had committed that murder, correct? Are you  
24 aware of that?

25 A. No, not firsthand. I'm not aware of that.

1 Q. Did anybody tell you in October 2015 that Mr. Martinez had  
2 confessed to the murder of Irvin De Paz?

3 A. No.

4 Q. In 2015, in October 2015, did anyone tell you that  
5 Mr. Martinez -- and he's known as Animal; is that correct?

6 A. Yes.

7 Q. That he had been taken to New Jersey?

8 A. I don't know about that.

9 Q. And in October 2015 or November 2015, did anyone tell you  
12:35PM 10 that Cooperating Witness Number 1, Pelon, and a fellow by the  
11 name of Muerto had driven him from New Jersey back to the  
12 Boston area? Did anyone tell you that?

13 A. Yes.

14 Q. Okay. Now, when did you learn that, sir?

15 A. I can't remember exactly, but probably during that same  
16 week.

17 Q. Before his arrest, correct?

18 A. Yes.

19 Q. And he was not arrested until January of 2016, correct?

12:36PM 20 A. Yeah. I'm not really sure of the dates where different  
21 individuals were placed in custody.

22 Q. Mr. Martinez, we can agree, was arrested as part of the  
23 big take-down, correct?

24 A. I believe so. I'm just not sure exactly what date.

25 Q. Now, did you know where Mr. Martinez was living after he

1 returned from New Jersey in late 2016?

2 A. I do not.

3 Q. Did you have occasion as a part of your work on this case  
4 to learn of an event that took place in Chelsea on December 27,  
5 2015, pardon me?

6 A. There were many events. I just don't know specifically on  
7 that day.

8 Q. Did you learn of a stabbing involving a person -- where a  
9 person named William Calderon was stabbed on December 2016?

12:37PM 10 A. Yes, I am aware of that.

11 Q. And to your knowledge was that after Mr. Martinez was  
12 brought back by Pelon and Muerto to Chelsea?

13 A. I really don't remember the time frame, but I do remember  
14 the stabbing.

15 Q. And do you also remember a stabbing that took place around  
16 January 1st or January 2nd, 2016 on Chestnut Street in Chelsea?

17 A. Again, you'd have to be more specific about the stabbing  
18 just because there were multiple incidents like that in  
19 Chelsea.

12:37PM 20 Q. Is it fair to say that sometimes assaults in Chelsea go  
21 unreported by the victims?

22 A. Yes.

23 Q. And that's because oftentimes the victims themselves may  
24 have immigration problems, correct?

25 A. That could be one of the reasons, sure.

1 Q. And so is it fair to say that if you were to learn that  
2 someone had been hit by a baseball bat, for example, you  
3 wouldn't conclude simply from the fact that the police had no  
4 report of that baseball bat attack that nothing had actually  
5 happened, correct?

6 A. I'd probably conduct a further investigation.

7 Q. And the fact that no one had reported being hit by a  
8 baseball bat wouldn't lead you to believe that someone hadn't  
9 actually been hit by a baseball bat, correct?

12:38PM 10 A. Again, I would continue my investigation, but it's  
11 possible.

12 Q. And it's particularly possible for those folks who are  
13 members of the immigrant community, correct?

14 A. We do know that that has happened, yes.

15 Q. Now, let me ask you. Sir, to your knowledge after  
16 the -- after Animal, Mr. Martinez, came back to the Boston  
17 area, did you or any of the other task force agents check to  
18 see whether he was in the country legally?

19 A. I did not, but I can't answer for the entire task force.

12:39PM 20 Q. And to this day, sir, do you know whether or not, as of  
21 November 2016, Mr. Martinez was in the country legally?

22 A. I do not know for sure, no.

23 Q. Well, do you have any information about that subject?

24 A. Mr. Martinez?

25 Q. Yes. And whether he's in the country legally or not?

1 A. I do not know.

2 Q. Now, you said that you were monitoring CW-1's phone calls,  
3 or I should say the task force was, correct?

4 A. That's correct.

5 Q. And did you know, in fact, during the investigation, sir,  
6 that he had two phones?

7 A. I do remember that at one point he had two phones.

8 Q. And it's fair to say, sir, that you were only listening to  
9 the recordings he was making on one of those phones, correct?

12:40PM 10 A. I'm not really sure. I couldn't be sure if they were  
11 monitoring both or just one.

12 Q. Do you know, sir, whether anyone from the task force  
13 reviewed the records of Mr. Martinez' phone call use on  
14 May 12, 2015?

15 A. Again, I don't know what other task force agents did.

16 Q. And you're familiar, sir, that there was a stabbing that  
17 took place in Highland Park in Chelsea on May 12, 2015?

18 A. That I do remember, yes.

19 Q. And, sir, were any arrests made in connection with that  
12:40PM 20 stabbing before January 2016?

21 A. I don't believe so.

22 Q. And it's fair to say, sir, however, that the members of  
23 the task force knew exactly who had committed that stabbing  
24 shortly after May 2015, correct?

25 A. I'm not sure how long after, but I do know that members of

1 the task force did receive information which led them to  
2 believe that they knew who was responsible for the stabbing.

3 Q. And that was -- if you're not sure when, sir, that was  
4 well before January, 2016?

5 A. Yes.

6 MR. MURPHY: May I have a moment, your Honor. Thank  
7 you, your Honor.

8 MR. LOPEZ: No questions, your Honor.

9 THE COURT: Redirect.

12:41PM 10 MR. POHL: No, thank you. Thank you, again.

11 THE WITNESS: Thank you.

12 MR. POHL: Will Brizuela.

13 WILLIAM BRIZUELA, having been duly sworn by the Clerk,  
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MR. POHL:

17 MR. POHL: May I, your Honor?

18 THE COURT: Yes.

19 Q. Good afternoon, sir.

12:42PM 20 A. Good afternoon.

21 Q. Thank you for your patience. I know you've been here more  
22 than one day.

23 A. Not a problem.

24 Q. Can you please introduce yourself to the ladies and  
25 gentlemen of the jury?

1 A. My name is William Brizuela.

2 Q. Would you spell your last name, sir?

3 A. B-r-i-z-u-e-l-a.

4 Q. Where do you work?

5 A. The Chelsea Police.

6 Q. How long have you been a Chelsea police officer?

7 A. I'm in my 22nd year now.

8 Q. What's your current assignment, Detective?

9 A. I am the sergeant in charge of the drug unit.

12:43PM 10 Q. Okay. And would it be fair to say that in the course of  
11 your duties as a Chelsea police officer that you've responded  
12 to a number of different types of reports of crimes including  
13 stabbings?

14 A. Yes.

15 Q. All right. Do you remember whether you were --  
16 participated in an investigation into an incident that took  
17 place on December 27, 2015?

18 A. I do.

19 Q. What can you tell the jury about what you remember about  
12:43PM 20 that day?

21 A. That day I was a patrol supervisor working from 3 p.m. to  
22 11 p.m. One of the patrol officers called off with a --  
23 somebody had flagged them down, that there was a fight in the  
24 area of 4th and Pearl Street.

25 MR. POHL: Can I have Exhibit 111 for the witness.

1 Q. All right. Can you see that on your screen?

2 A. Yes.

3 Q. And have you seen that before your testimony here today?

4 A. Yes.

5 Q. What are we looking at?

6 A. A map of Chelsea.

7 Q. And you said something about an area where there had been  
8 a radio call for a fight in progress?

9 A. Yes.

12:44PM 10 Q. Where was that?

11 A. By the corner of 4th and Pearl.

12 Q. And do you see that on this map?

13 A. I do.

14 Q. You patrol Chelsea regularly. Does this aerial photograph  
15 look like an accurate representation of this section of Chelsea  
16 to you?

17 A. Yes.

18 MR. POHL: Your Honor, I'd offer Exhibit 111.

19 THE COURT: All right. It's admitted, 111.

12:44PM 20 (Exhibit No. 111 received into evidence.)

21 Q. All right. So, Detective, I believe that with your finger  
22 you can actually press on the screen and tell, show the jury  
23 sort of the area, once you got that radio call, where you  
24 responded to?

25 A. The call was related to a stabbing, so therefore I



1       responded and when I got to the area the officers were at, it  
2       was right around here. Sorry. I think right here, in this  
3       area.

4       Q. All right. And that is sort of you said 4th Street and  
5       Pearl Street?

6       A. They were actually on Pearl Street, somewhere over here  
7       where the arrow is now. This general area here.

8       Q. Okay. And what did you see when you got there?

9       A. When I got there, there was some people standing around.

12:45PM 10       I'm assuming it was the victim, they put him into the ambulance  
11       and the ambulance had taken off.

12       Q. And what's the next thing that you did?

13       A. While we were there -- well, I asked Officer Rosetti what  
14       happened.

15       Q. And you asked an officer named Rosetti?

16       A. Rosetti.

17       Q. Why?

18       A. He was the responding officer, to see if he learned any  
19       information.

12:45PM 20       Q. Okay. So you spoke to Officer Rosetti?

21       A. Yes.

22       Q. And after you spoke to Office Rosetti, what did you do  
23       next?

24       A. Officer Leon had informed us that people had informed him  
25       that they saw a group of males, five or six males run into a

1 building at 141 Hawthorn Street leaving the scene of the  
2 stabbing.

3 Q. Okay. And from the map at 111, how sort of -- can you  
4 tell the jury sort of where that is and how close it is to the  
5 intersection of 4th and Pearl?

6 A. It's very close, about a block and a half away, something  
7 like that.

8 Q. Can you point it out on the map?

9 A. Yes, sorry. Right here.

12:46PM 10 Q. So what's that building? What does it look like?

11 A. It's a multi-dwelling building. It's like -- I think  
12 three or six apartments, I forget, but it's right on the corner  
13 of Hawthorn and Chester Avenue.

14 Q. And when you got that information that there might be some  
15 people in the building who were involved in the stabbing, what  
16 did you do?

17 A. We set up a perimeter around the building, and then we  
18 entered the building. There was an open -- there was a door in  
19 the back that was open that led down to the basement area.

12:46PM 20 Q. Did you go down to the basement yourself?

21 A. Yes.

22 Q. What happened when you got to the basement?

23 A. We found three males hiding in the basement.

24 Q. Did you see anything else in the basement?

25 A. There were some clothes, like they had taken off and

1       thrown about in the basement, set of keys as well, I believe.

2       Q.     What did you do once you found those three men in the  
3       basement?

4       A.     I asked them what they were doing down there and one of  
5       them said they were smoking.

6       Q.     What ultimately did you do with all three of them?

7       A.     They were placed under arrest for trespassing.

8       Q.     And when they were placed in the -- for trespassing. When  
9       they were placed under arrest for trespassing, excuse me, what  
12:47PM 10      did you do with them?

11      A.     They were transported to the station where they were  
12      booked and placed into cells.

13             MR. POHL:   Okay. And can I have 117.1 - .3 for the  
14      witness.

15      Q.     I'm going to show you a series of three pictures,  
16      Detective. Ask you if you recognize those pictures?

17      A.     Yes, those were the males that were arrested for  
18      trespassing that day in the basement.

19      Q.     And during the booking procedure, were you able to  
12:48PM 20      identify the three persons that were arrested for trespassing?

21      A.     Yes.

22      Q.     All right.

23             MR. POHL:   Your Honor, could I offer 117.1 - .3 into  
24      evidence, and I'd ask for permission to publish it to the jury.

25             THE COURT:   I'm sorry. 117.1, 117.2, 117.3?

1 MR. POHL: Correct. Thank you very much, your Honor.

2 (Exhibit Nos. 117.1, 117.2 and 117.3 received into  
3 evidence.)

4 Q. Let's look at 117.1. Do you recognize this individual?

5 A. Yes, that person was identified later as David Moratia  
6 (ph). I don't know if I'm saying it right.

7 Q. All right. And 117.2. Who is that?

8 A. That would be Luis Cruz.

9 Q. And 117.3.

12:49PM 10 A. That would be Sergio, I want to say Atavalo Hernandez.  
11 Artavalo Hernandez (ph).

12 MR. POHL: Can I have one moment, your Honor.

13 Thank you, sir.

14 THE WITNESS: Thank you.

15 THE COURT: Cross-examination. Mr. Murphy.

16 CROSS-EXAMINATION

17 BY MR. MURPHY:

18 Q. Good afternoon, Officer.

19 A. Good afternoon.

12:49PM 20 Q. My name is Marty Murphy, I represent Herzzon Sandoval. Is  
21 the area that we just saw on that map -- I don't know if you  
22 could put the map back up, please. Is there a restaurant

23 called the Santo Negro Restaurant near there, do you know, sir?

24 A. There is, yes. I believe, yes.

25 Q. And do you know where on the map that would be located?

1 A. If I'm not mistaken, I believe it's on the corner of 5th  
2 and Chestnut Street, if I'm thinking of the right restaurant.

3 Q. Thank you, sir. Now, sir, you're a sergeant in the drug  
4 unit?

5 A. Yes.

6 Q. And in the course of your career in the Chelsea Police  
7 Department, you also served as a patrol officer?

8 A. Yes.

9 Q. And does the Chelsea Police Department have roll calls at  
12:50PM 10 the beginning of shifts?

11 A. Yes.

12 Q. And what happens at a roll call at the beginning of a  
13 shift in the Chelsea Police Department in let's say December of  
14 2015. What would happen?

15 A. Typically, we might go over what happened the previous  
16 shift, things the officers need to know about. Assignments are  
17 given out, cruiser assignments are given out. Certain areas  
18 they're assigned to do like impact patrols type of thing.

19 Q. And if there was a person who was viewed as being a person  
12:50PM 20 of particular danger in the area, sometimes they'd be a  
21 briefing about that, correct?

22 A. Yes, if we were aware of it. Yeah.

23 Q. Right. So on the day that you talked about, on  
24 December 27, 2015, was there any briefing about the person  
25 named Joel Martinez?

1 A. Not that I'm aware of, sir. No.

2 Q. And do you know who Joel Martinez is?

3 A. No.

4 Q. And had anybody told you that as of December 27, 2015 that  
5 there was a person named Joel Martinez who confessed to the  
6 commission of a murder in Chelsea?

7 MR. POHL: Objection.

8 THE COURT: Overruled.

9 A. No, sir.

12:51PM 10 MR. MURPHY: Thank you, your Honor.

11 THE COURT: Redirect.

12 MR. POHL: No, thank you.

13 THE COURT: You may step down.

14 MR. POHL: May we approach?

15 THE COURT: Is the question whether to start a new  
16 witness?

17 MR. POHL: Yes.

18 THE COURT: I want to make use of the ten minutes. I  
19 know it's not ideal, but --

12:51PM 20 MR. POHL: We just wanted to make sure that's what you  
21 wanted to do. Thank you.

22 MAURICIO SANCHEZ, having been duly sworn by the Clerk,  
23 testified as follows:

24

25

1 DIRECT EXAMINATION

2 BY MS. LAWRENCE:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. Can you please say your name for the jury, please.

6 A. Mauricio Sanchez.

7 Q. Mr. Sanchez, are you currently in prison?

8 A. Yes.

9 Q. Why?

12:53PM 10 A. For being affiliated with a gang.

11 Q. Which gang?

12 A. MS-13.

13 Q. When you -- did you plead guilty before you entered prison  
14 in this case?

15 A. Yes.

16 Q. When you pled guilty, did you have an agreement with the  
17 government?

18 A. Yes.

19 Q. Okay.

12:54PM 20 MS. LAWRENCE: May I have Exhibit 110.1 for the  
21 witness, please.

22 Q. Mr. Sanchez, on the screen, is this your plea agreement  
23 with the government?

24 A. Yes.

25 Q. Is this your signature on the page?

1 A. Yes.

2 MS. LAWRENCE: Okay. Can I have Exhibit 110.2 for the  
3 witness.

4 Q. Is this your cooperation agreement with the government?

5 A. Yes.

6 Q. Is this your signature on the page?

7 A. Yes.

8 MS. LAWRENCE: Your Honor, I'd move to admit Exhibits  
9 110.1 and 110.2.

10 THE COURT: All right. They're admitted. 110.1 and  
11 110.2.

12 MS. LAWRENCE: Can you go back to 110.1, please?

13 (Exhibit No. 110.1 and 110.2 received into evidence.)

14 Q. Mr. Sanchez, you said you pled guilty to being affiliated  
15 with a gang. I'm just going to read a part of your plea  
16 agreement for you. This page says that you are charged with  
17 conspiracy to conduct enterprise affairs through a pattern of  
18 racketeering activity and that you expressly and unequivocally  
19 admit that you committed that crime. Okay. And on the bottom  
12:55PM 20 of the page it says that you may be incarcerated for up to 20  
21 years and on the following page, please, and that you may be  
22 deported from the United States as a result of this crime.

23 Do you understand that to be what the plea agreement  
24 says?

25 A. Yes.



1 MS. LAWRENCE: Can we have 110.2, please.

2 Q. Mr. Sanchez, this is your cooperation agreement with the  
3 government. In your own words, what does this agreement  
4 require you to do to get the benefits of this agreement?

5 A. Tell the truth.

6 Q. And what benefits do you expect to get or hope to get if  
7 you do that in this case?

8 A. A lower sentence and not to be deported.

9 Q. Have you been sentenced yet?

12:57PM 10 A. No.

11 Q. Do you know what sentence you will get?

12 A. No.

13 Q. Do you know who will decide what sentence you will get?

14 A. The Judge.

15 Q. Okay. All right. Mr. Sanchez, how old are you?

16 A. 30.

17 Q. Where were you born?

18 A. Honduras.

19 Q. When you were in Honduras, did you learn anything about

12:57PM 20 MS-13?

21 A. Yes.

22 Q. Were you a member of MS-13 in Honduras?

23 A. No.

24 Q. Did you come to the United States at some point?

25 A. Yes.

1 Q. When was that?

2 A. December of 2008.

3 Q. How old were you then?

4 A. 20.

5 Q. How did you get here to the United States from Honduras?

6 A. I walked and I walked across the border.

7 Q. Did you have help from anyone to do that?

8 A. A coyote.

9 Q. What's a coyote, please?

12:58PM 10 A. A person that guides people to cross the border more  
11 quickly.

12 Q. Okay. And did you have to pay that person, the coyote?

13 A. Yes.

14 Q. How much did you pay the coyote?

15 A. \$5,000.

16 Q. Was that your own money?

17 A. My mother paid for it.

18 Q. Okay. Why did you leave Honduras?

19 A. Over an incident that happened with my mother.

12:59PM 20 Q. What kind of incident?

21 A. She was attacked.

22 Q. Why did that cause you to leave?

23 A. She recommended that I come so as to not get myself into  
24 trouble.

25 Q. Okay. She was attacked. Did anything specific happen to

1 her?

2 A. Yes, she was shot at.

3 Q. Is she still alive?

4 A. Yes.

5 Q. Do you know who shot at her?

6 A. I saw the guys, but I did not recognize them actually.

7 Q. Did you ever at some later time tell anyone that you had  
8 shot your mother?

9 A. Yes.

01:00PM 10 Q. Who did you tell?

11 A. The first person I told was Lobo.

12 Q. Do you see Lobo in the courtroom here today?

13 A. Yes.

14 Q. Can you point him out, please?

15 A. Right there.

16 MS. LAWRENCE: Can the record reflect that the witness  
17 has identified the defendant Argueta Larios?

18 THE COURT: Yes.

19 Q. Did you tell anyone other than Lobo?

01:00PM 20 MR. MURPHY: Objection, your Honor, relevance and  
21 hearsay.

22 THE COURT: I'll allow it. Overruled.

23 Q. Why did you tell Lobo that you had shot your mother?

24 A. I made it up while I was drunk.

25 Q. And was there a reason why you made it up?

1 MR. MURPHY: Objection, your Honor.

2 THE COURT: Overruled.

3 A. Yes.

4 Q. What was that reason?

5 A. To make myself appear worse, because not just anyone will  
6 shoot his mother.

7 Q. Okay. All right. So when you crossed the border into the  
8 United States, where did you go?

9 A. To Boston.

01:01PM 10 Q. Why did you go to Boston?

11 A. Part of my family is here.

12 Q. Okay. You testified that you're a member of MS-13?

13 THE COURT: Actually, are you changing subjects now?

14 MR. POHL: Yes, I am.

15 THE COURT: All right. Why don't we break there for  
16 the day. Let me see lawyers at sidebar to talk about the  
17 schedule. The jury can leave.

18 (THE FOLLOWING OCCURRED AT SIDEBAR:)

19 THE COURT: All right. What's the current estimate of  
01:02PM 20 when you're going to rest?

21 MR. POHL: Well, I think, Judge, we're going to finish  
22 with Mr. Sanchez. I think we may or may not call  
23 Sergeant Millett, and that's it, I think. I expect that that  
24 would be -- I'm not certain we'd call all those people, but  
25 that would be sort of the lineup as we go on.

1 THE COURT: Best case scenario is probably Friday but  
2 more likely spill into Monday is the present state?

3 MR. POHL: I would guess Friday. The only reason I  
4 say that, cross is a different story, obviously, but I don't  
5 want -- this witness will not be like Hernandez Miguel. I  
6 don't expect him to be on direct any near that long.

7 THE COURT: Okay. So, I guess, obviously, it depends  
8 on the defense case and so forth, but if you have issues you  
9 want to take up again, let's not do it while the jury is  
01:03PM 10 waiting, let's reconvene at 8:30 tomorrow, and, you know, this  
11 is the timetable. If there is a defense case, it ought to be,  
12 I guess, you know, prepared to go Friday at the earliest, more  
13 likely Tuesday next week.

14 MR. MURPHY: Your Honor, I do intend to file something  
15 on the transcript. Did the government hand up a copy?

16 MS. LAWRENCE: We did.

17 THE COURT: I'm sorry.

18 MS. LAWRENCE: The transcript we discussed this  
19 morning, December 17th, 2015.

01:03PM 20 THE COURT: Okay.

21 MR. POHL: That will be something we can take up  
22 tomorrow morning.

23 THE COURT: All right.

24 MR. LOPEZ: Your Honor.

25 THE COURT: I'm sorry, Mr. Lopez.

1 MR. LOPEZ: For planning purposes, how long do you  
2 think that Mr. Sanchez will be on his direct?

3 MR. POHL: We'll be done tomorrow. I don't think it  
4 would be the end of the day, a guess maybe not before the first  
5 break before certainly before the second break.

6 MR. LOPEZ: It won't be the 7 or 8 hours?

7 MR. POHL: We're not going all day tomorrow.

8 MR. LOPEZ: You anticipate three or four hours?

9 MR. POHL: I would anticipate we'd be done before the  
01:04PM 10 second break tomorrow. Thank you.

11 (Whereupon, the hearing was adjourned at 1:03 p.m.)

12 C E R T I F I C A T E

13 UNITED STATES DISTRICT COURT )  
14 DISTRICT OF MASSACHUSETTS ) ss.  
15 CITY OF BOSTON )

16 I do hereby certify that the foregoing transcript was  
17 recorded by me stenographically at the time and place aforesaid  
18 in Criminal Action No. 15-10338-FDS, UNITED STATES vs. HERZZON  
19 SANDOVAL, et al., and thereafter by me reduced to typewriting  
20 and is a true and accurate record of the proceedings.

21 Dated this 21st day of June, 2018.

22 s/s Valerie A. O'Hara

23 \_\_\_\_\_

24 VALERIE A. O'HARA

25 OFFICIAL COURT REPORTER